

STATE OF CALIFORNIA
MEETING OF THE
CALIFORNIA INSPECTION & MAINTENANCE REVIEW
COMMITTEE

Tuesday, August 22, 2006
California Air Resources Board
1001 I Street, Coastal Hearing Room
Sacramento, California

1 **MEMBERS PRESENT:**

2 VICTOR WEISSER, Chairman

3 DENNIS DECOTA

4 JEFFREY WILLIAMS

5 ROGER NICKEY

6 BRUCE HOTCHKISS

7 JOHN HISSERICH

8 ELDON HEASTON

9 JUDE LAMARE

10 GIDEON KRACOV

11 ROBERT PEARMAN

12
13 **MEMBERS ABSENT:**

14 TYRONE BUCKLEY

15 PAUL ARNEY

16
17 **ALSO PRESENT:**

18 ROCKY CARLISLE, Executive Officer

19 STEVE GOULD, Consultant

20 JANET BAKER, Administrative Staff

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P R O C E E D I N G S

CHAIR WEISSER: Okay. Hi, I'm Vic Weisser. I'm the Chair of the IMRC and I want to call this August 22nd, 2006, meeting of the Committee to order. If I could ask folks both here on the dais and in the audience to set their cell phones on stun, I'd appreciate it. I want to apologize for my inability to attend the last IMRC meeting. I, the day before, had been doing some work with my 14-year-old Godson and I realized that, as he said, you're really getting old, Dad, and there are limits to what older people such as myself can do. And thanks for the notes that some of you sent me wishing me for a speedy recovery. It was not wonderful. We also should mention before we get started that my appointment to the IMRC runs out this month. The way law works, I can continue until they appoint someone else or until I resign. My expectation is that I will continue through the end of this calendar year unless the Governor makes an appointment to replace me, but I definitely will be leaving the Committee at year's end. Parties and congratulatory messages should wait. I think we'll start off by asking Committee Members to do introductions. But actually before I do that, I want to compliment the Committee for the work that it did last month and, in particular, the not one, but two Chairs, the jury will note, that it took to replace me during my absence.

1 But we'll start from the far left and ask folks to introduce
2 themselves.

3 MEMBER WILLIAMS: Jeffrey Williams.

4 MEMBER NICKEY: Roger Nickey.

5 MEMBER HEASTON: Eldon Heaston.

6 MEMBER HISSERICH: John Hisserich.

7 MEMBER DECOTA: Dennis DeCota.

8 MEMBER LAMARE: Jude Lamare.

9 MEMBER KRACOV: Gideon Kracov.

10 MEMBER HOTCHKISS: Bruce Hotchkiss.

11 - o0o -

12 CHAIR WEISSER: Okay. You can see we're all equipped with our
13 terrorist-fighting weaponry. It's also available, of
14 course, to the speakers in the front room and use it at your
15 discretion. Our first order of business is the approval of
16 the minutes for the meeting of July 25th and I will ask if
17 everyone has had ample time to review those minutes and are
18 there any suggestions for modifications for the minutes?

19 MEMBER LAMARE: I just want to apologize for missing the meeting
20 and let everybody know I did read the transcript, but I'll
21 be abstaining from the vote on the minutes.

22 CHAIR WEISSER: Okay. I also slogged my way through the
23 transcript. Let's just put it this way, I had no trouble
24 going to sleep after reading it. It's hard to work your way
25 through these transcripts. In the event of no proposed

1 changes, is there someone who wishes to make a motion for
2 adoption -

3 MEMBER HISSERICH: I'll move approval of the adoption of the
4 minutes.

5 CHAIR WEISSER: By Mr. Hisserich and seconded by Ms. Lamare.

6 MEMBER LAMARE: Robert Pearman.

7 CHAIR WEISSER: Pardon me, that's correct. It's seconded by Mr.
8 Pearman for adoption of the minutes. All in favor, please
9 signify by saying aye.

10 ALL MEMBERS: Aye.

11 CHAIR WEISSER: Any opposed? Hearing none, it's approved. Now
12 those minutes are approved without either Ms. Lamare or Mr.
13 Weisser's vote. We are both abstaining. Okay. Our next
14 order of business is to hear a report from our wonderful
15 Executive Officer. Rocky, what can you share with us?

16 - o0o -

17 MR. CARLISLE: Thank you, Mr. Chairman. As you might imagine,
18 I've been devoting most of my time to editing and doing some
19 rewrites on the IMRC report. Everybody has a - last week I
20 overnighted copies to all the Committee Members and so
21 hopefully we'll spend the bulk of today going through that
22 and making any edits necessary so we can get that finalized.
23 I also worked with Assemblywoman Lieber's office on AB1870.
24 we've had several conference calls on that bill. There is a
25 letter of opposition from the Department of Consumer

1 Affairs. You have that in your binder under correspondence.
2 Some of the issues you can work with and some of them you
3 might as well, in my opinion, not have the bill because
4 they're suggesting for example they don't increase the cost
5 limit for CAP on the smoking vehicles. In other words, they
6 amended it to say \$1,000 instead of the original \$1,500 as a
7 request from DCA. Actually, I think that was from the
8 Administration. And then DCA is suggesting it be brought
9 back down to \$450 or actually the CAP limit of \$500. The
10 problem is, you can't really repair a smoking vehicle for
11 \$500 in most cases, but that's being worked out with the
12 Administration so that piece of legislation is still on the
13 bubble pretty much and we don't know which way it's going to
14 go. I'm still waiting for some additional data from the
15 Bureau of Automotive Repair. In June I had sent a request
16 for remote-sensing data. Last week when they had the data,
17 I guess they decided it needed to go to Legal to see if they
18 could release it. So I did talk to Legal and hopefully I'll
19 hear about it this week. But Jeffrey and I are waiting on
20 that so we can finish some of the comparison analysis.

21 CHAIR WEISSER: The data is not public record of any sort?

22 MR. CARLISLE: It is.

23 CHAIR WEISSER: I don't understand the legal issues. Is it to
24 make sure that the identification of vehicles is screened so
25 that there's privacy issues associated with it?

1 MR. CARLISLE: That's a possibility, but on that data, there is
2 no - other than vehicle identification number, there's no
3 consumer identification.

4 CHAIR WEISSER: Perhaps a representative from BAR will be able
5 to illuminate us as to the hang-up.

6 MR. CARLISLE: Okay.

7 CHAIR WEISSER: Please continue, Rocky.

8 MR. CARLISLE: And then one thing I wanted to mention, too, is
9 the September of the IMRC will not be here. I think the
10 next two meetings are actually at the Department of Consumer
11 Affairs. They do have a very nice meeting room over there.
12 It's on North Market, you exit I-5 at Eureka Road and it's
13 easy access, egress to the highway so it shouldn't be a
14 problem. They do have recording facilities. I don't think
15 they're going to have the video conferencing capability like
16 we have now, but they do have recording facilities set up
17 over there.

18 MALE: That's 400 R?

19 MR. CARLISLE: No, not 400 R. It's 1625 North Market. It's
20 right over by Arco Arena.

21 CHAIR WEISSER: And this will be both September 26th -

22 MR. CARLISLE: September and October.

23 CHAIR WEISSER: And what's the October date again, Rocky?

24 MR. CARLISLE: That I don't have with me, but I will get it for
25 you.

1 CHAIR WEISSER: Does anybody know offhand?

2 FEMALE: The 31st of October.

3 CHAIR WEISSER: I have the 24th. Okay.

4 MEMBER LAMARE: What did you say, September 26th?

5 CHAIR WEISSER: Yes, I did.

6 MEMBER LAMARE: Thank you.

7 CHAIR WEISSER: Okay. We'll follow that up with emails and
8 directions.

9 MR. CARLISLE: Yes, you bet. I'll send everybody a map.

10 CHAIR WEISSER: Please continue.

11 MR. CARLISLE: Last but not least, the Air Resources Board has
12 actually issued a notice of public hearing with regard to
13 some modifications to OBD II, onboard diagnostics. In your
14 packet under correspondence is approximately a nine-page
15 notice and some basic information. If you would like the
16 complete document that they've provided, this is the
17 document here and, as you can see, it's several hundred
18 pages. I'll be glad to provide everybody with a copy, but
19 I'll be going through that in the next month and I'll report
20 back to the Committee on those changes. And that concludes
21 my report.

22 CHAIR WEISSER: Members, are there any questions of Rocky? Mr.
23 Pearman?

24 MEMBER PEARMAN: Is the meeting changed permanent, are we being
25 kicked out of here or just trying it out?

1 MR. CARLISLE: No, we typically reserve this room six months in
2 advance, but I think we were five months and 25 days in
3 advance and we missed that window of opportunity.

4 CHAIR WEISSER: Never let that happen again, Mr. Carlisle.

5 MEMBER PEARMAN: There are some fine meeting rooms in Southern
6 California we remind you.

7 CHAIR WEISSER: And, in fact, Rocky, I would like you to explore
8 whether our budget and appetite are such that we could have
9 the October meeting in Southern California. Could you do
10 some exploration?

11 MR. CARLISLE: I could do that.

12 CHAIR WEISSER: We had talked about that early in the year and
13 I'd like to see if that's something that we shouldn't do.
14 Are there any further questions from Members of the
15 Committee? Are there any comments from members of the
16 audience on the Executive Officer's report? Hearing none,
17 we will now move to the BAR and ARB update. And I think
18 we'll start first with BAR.

19 - o0o -

20 MR. COPPAGE: Good morning, Mr. Chair, Committee. Alan Coppage,
21 Bureau of Automotive Repair. For our update today, it's
22 been a busy week at BAR. The last week, as some of you may
23 have heard, we have a few vacancies in the executive office.
24 Last Friday we bid farewell to Chief Richard Ross, as well
25 as Deputy Chief James Goldstein, who is in the room with us

1 today in another capacity from BAR. So we have some empty
2 seats at the Bureau of Automotive Repair in the executive
3 office. So we would beg your indulgence with a little
4 patience with us as we transition. We have Assistant Chief
5 Dennis Kenealy (phonetic), whom you met a number of meetings
6 ago, in the acting capacity at this point in our executive
7 office and we have Michael Lafferty who is our manager for
8 the Consumer Assistance Program filling in for James
9 Goldstene. So musical chairs at the Bureau of Automotive
10 Repair. However, in addition to those just kind of
11 housekeeping items, I'd like to share some information
12 that's been happening with our Consumer Assistance Program,
13 both from the Bureau of Automotive Repair and from the
14 Department and the Agency.

15 CHAIR WEISSER: Before you get to that item, I wonder if you
16 could alert the Committee as to when the employee pool
17 begins on the guessing of who are going to be the
18 replacements for these positions, because I think there may
19 be Committee Members who want to get in on the action.

20 MR. COPPAGE: No comment. Moving right along. California State
21 Fair is underway and the Bureau of Automotive Repair, the
22 Department of Consumer Affairs has a good presence out there
23 with a two-side booth, we're twice as big as we used to be.
24 We are doing a nightly car-crushing to highlight the
25 Consumer Assistance Program's voluntary retirement option.

1 That's been a very popular display. At 6:00 each evening we
2 have a vehicle that's been retired crushed. We have had
3 quite a few hundred in attendance, between 300 and 400 each
4 night to view that event.

5 CHAIR WEISSER: Wow.

6 MR. COPPAGE: We have kind of captive audience the way the flow
7 works. You've kind of got to come into an area and then
8 leave through the same area. So we have taken the
9 opportunity to be at that point with handouts for the
10 Consumer Assistance Program, we've answered a number of
11 questions regarding, you'll really give me \$1,000 for my old
12 clunker. We've been able to really get the word out
13 relative to that. And in addition to the vehicle
14 retirement, which again is highlighted, also the repair
15 assistance option that's also available for consumers.

16 MEMBER HISSERICH: Can I ask a question real quick?

17 CHAIR WEISSER: Hang on for one second. Do you have a question,
18 John?

19 MEMBER HISSERICH: Have you gotten any TV coverage - Yes, John
20 Hisserich. Have you gotten any TV coverage on that crushing
21 thing yet, just because that would obviously amplify the -

22 MR. COPPAGE: I don't know specifically if we have had TV
23 coverage, but there have been TV news cameras right down the
24 aisle from where our crushing event is. But I do not have -
25 I haven't seen anything on the news, but again, many people

1 have come through and as I said, we've looked at between 300
2 and 400 people come by during the six o'clock hour to watch
3 that event and we have had approximately 1,000 stop by our
4 booth daily. We keep a count of how many people come by,
5 and answer questions from the Governor's Breathe Easier
6 Campaign and how the Consumer Assistance Program plays into
7 that, that push by the Governor's office.

8 CHAIR WEISSER: Is this a good kind of photo op to get the
9 Governor out there and maybe run over one of these old cars
10 with his Hummer or something?

11 MR. COPPAGE: Well, the last one he had that I believe was still
12 on his web page was very popular. He was out crushing a
13 car.

14 CHAIR WEISSER: I remember.

15 MR. COPPAGE: Yes, that was a really neat photo opportunity.

16 CHAIR WEISSER: How's the program going? How are the Bureau's
17 efforts in terms of the vehicle retirement going?

18 MR. COPPAGE: Well, I shared with the Committee last month, I
19 believe it was, some overall numbers. VR, as well as the
20 Repair Assistance, are budgeted for a little bit more money
21 this coming fiscal year and we're anticipating a significant
22 increase in the vehicle retirement. That's going full
23 steam. It's been very well-publicized and a lot of people
24 are taking advantage of that and we see the numbers
25 increasing. As well as the repair assistance side, a couple

1 of things have changed there. The budget's been augmented
2 somewhat as well as starting July 31st of 2006, the income
3 eligibility calculation for those that are income eligible
4 was increased from 185% of the federal poverty level to 225%
5 so we are expecting with that change more participation from
6 those that qualify under the low-income category. So that's
7 a good thing. We're getting a lot more people into this
8 program to assist in repairing of their vehicles as well as
9 showing them the option of retirement and the benefits that
10 are associated with that.

11 CHAIR WEISSER: I should mention before you go on that a
12 coalition called the California Environmental Dialogue,
13 which some of you may be familiar with, spent quite a bit of
14 time discussing the various early retirement programs that
15 are active in the State, including the BAR's program, but
16 also the programs in their quality management districts
17 throughout the state and sent forward a paper and a letter
18 to a variety of stakeholders outlining some of the
19 principles that this group of environmentalists, businesses,
20 and regulators felt would be helpful to keep in mind. One
21 of the recommendations that was made was that there are a
22 variety of different slants on these programs in various
23 districts and the State program and there was a sense of the
24 folks that were involved in this dialogue that it would be
25 really helpful for the State to initiate some sort of an

1 ongoing opportunity for the various players in early
2 retirement to get together and share information, to share
3 experiences, to share data in the hope that people could
4 learn from the successes and problems that others are
5 experiencing. This group, I should mention, was led by Jude
6 Lamare, to my immediate right, as one of the co-chairs. So
7 we sent this out, a week ago I received a call from Charlene
8 Zettel, the Director of the Department of Consumer Affairs
9 and it took us four days for us to connect on the phone, but
10 finally her persistence paid off and we were able yesterday
11 afternoon to get together and I can only say how heartened I
12 was by her energy associated with attempting to try to
13 improve the program, improve coordination of the various
14 regulatory agencies associated with the program. And she
15 was suggesting that and asking what was the best to get this
16 thing rolling because frankly we haven't gotten a response
17 back yet from CAL EPA. So one of the things that I'm
18 intending to do is to follow-up with the Air Resources Board
19 to see whether or not they, in connection with Charlene
20 Zettel, the Director of Consumer Affairs, would be
21 interested in sponsoring such a get-together to initiate
22 that sort of conversation. And I want to express my
23 appreciation for her energy and her foresight and I hope you
24 bring that back to her and let her know appreciative we are.

25 MR. COPPAGE: Sure.

1 CHAIR WEISSER: Jude, is there anything you want to add?

2 MEMBER LAMARE: No.

3 CHAIR WEISSER: Okay. Please continue.

4 MR. COPPAGE: Continuing with a comment that was made by the
5 Executive Officer's report with the roadside data that's
6 been requested, I can give you just a little bit of
7 clarification on that. It is, after executive review last
8 week when we had executives, it was reviewed and our legal
9 counsel with the Department of Consumer Affairs is currently
10 reviewing that request on all of its aspects and all of its
11 merits. I'm not really at liberty to discuss anything more
12 than that about it, other than it's at Legal. That's kind
13 of a broad statement and it's not what you wanted it hear, I
14 understand.

15 CHAIR WEISSER: No, and you asked me to be patient in the
16 absence of a full core of upper management and you've known
17 me long enough to realize that's not a commodity I have a
18 great store of. I'll just make an overall comment. It has
19 been, I think, unnecessarily frustrating for this Committee
20 to deal with what I think are - and we'll just call it a
21 lack of energy associated with our request for data and I'm
22 going to leave it at that. I think that's a mistake and I
23 hope under the new management we see a more alacrity and
24 preparation of information that's requested by this
25 Committee and I'll leave it at that. Thank you.

1 MR. COPPAGE: Thank you. That's about it for BAR.

2 CHAIR WEISSER: Thanks for the report. Let's see if there are
3 questions. Mr. Pearman you have your mic up?

4 MR. PEARMAN: Oh, no that was -

5 CHAIR WEISSER: Any questions. Thank you. We will get comments
6 from the audience after the ARB report; is that okay,
7 Charlie? Okay. We have a doppelganger in our midst. He
8 loves us so much that even though he left a mother ship to
9 another mother ship, he's back. Mr. Goldstene?

10 - o0o -

11 MR. GOLDSTENE: Good morning. I'm James Goldstene. I'm the new
12 ARB liaison to the IMRC. I also have the broad
13 responsibility of sort of managing all aspects of the Smog
14 Check Program for ARB, so I'll be working on a lot of
15 different issues that affect the Committee that the
16 Committee's interested in. This is my second day, so please
17 keep that in mind and pretend you don't know who I am. One
18 of the things that I want to make sure that the Committee
19 understands is that my role at ARB will be to ensure that
20 the Committee's needs are met to the extent we can. So feel
21 free to contact me. Rocky and I will now be in the same
22 building and we'll be able to expedite queries, I hope. I
23 know that one of the reports that the Committee is eagerly
24 awaiting for is the RSD report and the staff and the
25 contractor are working on re-working that report so it

1 presents a result that is clearly linked to the data that's
2 been accumulated and that is easy to understand for policy-
3 makers to make decisions about where RSD should be within
4 the context of the Smog Check Program. We hope to have the
5 final draft of that report in October. Any questions about
6 that?

7 CHAIR WEISSER: Other than to comment that that will motivate me
8 to stay on for the remainder of the year.

9 MR. GOLDSTENE: Also the program eval effort is underway. I'm
10 stepping in to find out where all the different parts are of
11 that and by the next IMRC meeting, I'll provide a more
12 detailed update on the plans for that. On August 31st,
13 there will be another workshop on the voluntary accelerated
14 vehicle retirement regulations and I also heard your
15 comments relative to ARB's potential role in a statewide
16 forum or something relative to vehicle retirement.

17 CHAIR WEISSER: And that's something you might want to pass over
18 the Tom Cackett and Catherine to expect some sort of
19 contact.

20 MR. GOLDSTENE: Yes, I will.

21 CHAIR WEISSER: Any questions or comments, folks?

22 MEMBER WILLIAMS: Jeffrey Williams. About the analysis and
23 presentation of the big report on remote sensing, it strikes
24 me as a bit odd that here we as a review panel are supposed
25 to get this material after it's all been reviewed internally

1 and it seems to me that process might work a little more
2 effectively is it's simultaneous. I understand work in
3 process can sometimes need to be revised and it might seem
4 official before it is, but why not plan a presentation in
5 September on the analysis to date and any comments we have
6 might affect the final report. I just don't see why, even
7 if something is preliminary, that's precisely we might help
8 to discuss it. So I would like to see us have a
9 presentation on that in September, as early as possible
10 then. I don't see why not.

11 MR. GOLDSTONE: I hear what you're saying. I'm going to have to
12 look into it a little more to find out exactly what the
13 status is of the report.

14 CHAIR WEISSER: I could understand the hesitancy of an agency to
15 release data before they're confident that the data has been
16 organized in a scientifically acceptable manner, to their
17 own satisfaction. The challenge is that once they share
18 that data, it's going to be seen as an ARB report and I can
19 understand and be sympathetic to the notion that they want
20 to make sure that when it hits the street, it's in decent
21 shape as a draft report. On the other hand, the opportunity
22 for a broad discussion of potential policy implications
23 prior to your decisions on what is going to be in the report
24 might be a good idea. Just in terms of gaining insight as
25 to other people's perspectives, it might be something that

1 could further the ball in terms of coming up with a
2 consensus understanding of the data. That's something you
3 might want to think about carefully, James.

4 MR. GOLDSTENE: I understand, Mr. Chair. I understand your
5 comments. I think the objective will be to present a report
6 that is written with precision, that is accurate, and that,
7 to use your analogy, carefully forms the ball that we want
8 to discuss, that if the ball is not well put together, we
9 can't have a meaningful discussion and I think it's
10 important to make sure that the report that we present is
11 something that really can lead to a substantive careful
12 policy discussion and that there are no questions about the
13 quality of the data and the linkages then that could be made
14 to policy.

15 CHAIR WEISSER: My principle concern is that you don't get
16 yourself too locked in to one position or another before you
17 have an opportunity hear other stakeholders perspectives on
18 the data, not just this Committee's, but others in the
19 public and whatever.

20 MR. GOLDSTENE: Okay. I understand.

21 CHAIR WEISSER: That's all.

22 MR. GOLDSTENE: Okay.

23 CHAIR WEISSER: Okay. Other comments or questions? Well,
24 James, congratulations on this move and I, for one, am glad
25 that there's going to be continuity in your presence here.

1 I think your knowledge of both ARB and BAR should be helpful
2 to the program in general and to this Committee in specific.

3 MR. GOLDSTENE: Yes.

4 CHAIR WEISSER: I'm glad you're where you are.

5 MR. GOLDSTENE: Thank you.

6 CHAIR WEISSER: Congratulations.

7 MR. GOLDSTENE: I appreciate it, thank you.

8 CHAIR WEISSER: Rocky, I may have cut you off before you
9 finished your legislative report, did I?

10 MR. CARLISLE: Well, we didn't cover legislation, but we can go
11 back to that.

12 CHAIR WEISSER: So, Dennis, thank you. Dennis pointed out that
13 I may have jumped ahead. What I'd like to do then is to
14 open this portion up, the BAR and ARB reports, for public
15 comments, and then we'll return for legislation.

16 MR. CARLISLE: Okay.

17 CHAIR WEISSER: Are there any public comments? Mr. Rice?

18 MR. RICE: Good morning, Committee. Bud Rice with Quality Tune-
19 Up Shops. Just a quick comment and I don't know if this
20 exists today, so forgive me if it does. And if it does, I'd
21 like to maybe figure out how to get a copy of it. I've been
22 coming to a lot of these things and a lot of times we'll
23 have the BAR come up and do a presentation and something's
24 missing from what it is we're trying to get from them. It's
25 the report, some kind of feedback on something. Same with

1 ARB, it seems like sometimes they come and they say, well,
2 this report's going to come out here. And there's a number
3 of issues, I'll call them open issues, that are kind of
4 hanging out there. I don't recall there ever being an open
5 issues document or anything like that that says here's the
6 things we're waiting for, here's the prospective dates that
7 we're going to get our hands on that and then as we're
8 getting them, we can just start scratching them off the
9 list. It just seems like there's a bunch of loose ends that
10 keep flopping around and we never get our hands on it.

11 CHAIR WEISSER: That's a question and I'll ask our Executive
12 Officer to respond to that directly.

13 MR. CARLISLE: With regard to formal requests that we've made to
14 both agencies, I do track that. I have a database where I
15 track when the request was made, who it was made to, and
16 when we receive the information. As far as some of the
17 reports, because there's a myriad of reports that are always
18 coming and going, I haven't specifically tracked those. But
19 I think it's a good idea.

20 CHAIR WEISSER: Mr. DeCota?

21 MEMBER DECOTA: I'd like to make a formal request that the
22 Committee have that information in it's monthly meeting
23 packets so that we can keep track on questions we may have
24 asked or reports that we may, as a Committee, have requested
25 and see what the progress is on them so we can track them.

1 MR. CARLISLE: You bet.

2 CHAIR WEISSER: That being the case, I see nothing wrong with us
3 sharing that information with the public. So if any member
4 of the public is interested in knowing what we've requested
5 from the agencies, Rocky, I'd like you to make that
6 available. Members of public can access that information
7 from now on once the sheet is developed by directly calling
8 or emailing our Executive Office, Rocky Carlisle.

9 MR. CARLISLE: Not a problem. I've already got the database -

10 CHAIR WEISSER: I've seen it, Rocky. I know what you have.

11 MR. CARLISLE: Yes.

12 CHAIR WEISSER: You showed us the kind of here's where things
13 stand report.

14 MR. CARLISLE: Right.

15 CHAIR WEISSER: And it's fine. I see it being a desirable thing
16 for the public to have. Thank you, Bud. Mr. Peters?

17 MR. PETERS: Yes, hello, Mr. Chairman and Committee. I'm
18 Charlie Peters, Clean Air Performance Professionals, a
19 coalition of motorists. An interesting subject brought up
20 today which appears to be a significant part of this
21 Committee's direction, which is getting cars off the road
22 and the issue of let's clean up the air by crushing cars.
23 It seems as though the desirable direction is to move it
24 from the State Implementation Plan, which is provided by
25 scrappage from the Bureau of Automotive Repair to the air

1 districts, which makes it a tradable commodity, which has
2 potential of having very significant impact on business in
3 California, possibly driving it offshore. Having said that,
4 I don't see where there's any meaningful audit of that
5 system as to how it in fact is performing, in that you can
6 have a car that is a significant polluter, it fails a Smog
7 Check after it gets a filter dirty at 60,000 miles. Every
8 time it fails and when that filter is replaced, every time
9 it passes. And nobody ever replaces one hardly. So here we
10 are created possibly huge taxation on California businesses,
11 crunching cars, selling them those credits, when in fact we
12 may have a car that needs a four dollar filter and four
13 screws installed or removed and reinstalled. So unless
14 there's some sort of an audit program done of the car-
15 crushing program to see that it is meaningful, what kinds of
16 benefits it truly has, then all we have here possibly just
17 maybe smoke and mirrors, a business effort to significantly
18 affect markets in California rather than the possible idea
19 that maybe we should prevent pollution and keep cars from
20 becoming broken and significantly improve our air quality in
21 California. I also find the information continuously
22 supported by this Committee that disregards the most
23 important technology on the face of the planet. That's the
24 technology between people's ears. The primary thing that
25 makes Smog Check work is the provider and the standards that

1 he sets and whether or not he's supported to do that. So
2 just having technology to measure tailpipe emissions as a
3 basis for impacting fleet emissions seems to be missing a
4 very significant possibility of improving performance to the
5 program or an audit to find out if what's broken actually
6 gets fixed could significantly benefit the people of
7 California, the ethics of the automotive service industry
8 and certainly the air we breathe. Thank you, Mr. Chairman.

9 CHAIR WEISSER: Well, thank you, Mr. Peters. Ms. Lamare?

10 MEMBER LAMARE: I'd just like to go on record here that I
11 disagree with the statement that moving scrappage to air
12 districts makes it a tradable commodity. I don't think
13 that's the case. Yes, we need a meaningful audit of the
14 scrappage programs. I think that was one of the
15 recommendations made by the California Environmental
16 Dialogue, but I would point out that the Air Resources Board
17 does do a report on scrappage programs throughout the State
18 and that's available to the public, but you do have to know
19 who to ask. I have gotten a copy of that report by asking
20 for it. It's not on their website, but I believe they
21 intend to put it on their website. And I don't know where
22 Mr. Peters gets the idea that the air districts are going to
23 be giving out credits from scrapping vehicles. It's not in
24 any of the programs I've seen under the new legislation.

25 CHAIR WEISSER: Thank you, Jude. Any other comments? Thank

1 you. Are there other public comments? Thank you. Now
2 we'll turn to the legislative update which I most callously
3 interrupted from our wonderful Executive Officer, Rocky
4 Carlisle. Rocky?

5 - oOo -

6 MR. CARLISLE: Thank you, Mr. Chairman. There's only a couple
7 of bills surviving at this point and by month's end, that
8 issue will be resolved one way or another. For example,
9 AB226 by Bermudez, that's the Technician Training Fund bill.
10 That has not been held under submission in the Senate
11 Committee on Appropriations and it's probably not gonna
12 surface again. There was evidently opposition from the
13 regional occupational programs that was unannounced until
14 the committee meeting and that was enough to hold that bill
15 once again.

16 CHAIR WEISSER: So this is under suspense, not submission,
17 Rocky.

18 MR. CARLISLE: I'm sorry, under suspense.

19 CHAIR WEISSER: Okay.

20 MR. CARLISLE: Yes.

21 CHAIR WEISSER: Hold on a second. John?

22 MEMBER HISSERICH: I don't understand because I don't have it in
23 front of me, but why would the ROPs oppose that because it
24 looks like it was giving them money?

25 MR. CARLISLE: No, they weren't getting money in the bill.

1 MEMBER HISSERICH: Oh, they weren't.

2 MR. CARLISLE: No.

3 MEMBER HISSERICH: Because it said public secondary and the
4 regional occupational programs are under that.

5 MR. CARLISLE: But they weren't getting any money out of that
6 bill. Evidently there wasn't enough to go around.

7 CHAIR WEISSER: One moment. Mr. Walker, do you have something
8 you want to add specifically on this?

9 MR. WALKER: Just for clarification. Chris Walker on behalf of
10 the CAL ABC, sponsor of the bill. The regional occupational
11 programs did oppose the bill and sought the bill to die in
12 appropriations primarily because Rudy Bermudez was hoping to
13 support the high school programs and also provide assistance
14 to community colleges that desperately needed it. ROPs
15 wanted to have access to the money. It was felt that the
16 regional occupational centers that serve mostly adults would
17 grab up the money quickly, therefore the dollars wouldn't go
18 to high school. Rudy Bermudez took an amendment that said
19 if there's any more left over after high schools and
20 community colleges are served, ROPs and regional
21 occupational centers and adult programs could have access to
22 the dollars. So they were second in line. That wasn't good
23 enough. If they weren't first in line, the bill had to die.
24 CHAIR WEISSER: I'm assuming that we'll be seeing this again
25 next year.

1 MR. WALKER: Absolutely.

2 CHAIR WEISSER: Thank you. The Committee would be very
3 interested in that. Please continue.

4 MR. CARLISLE: The other bill that continues to survive is
5 AB1870 by Lieber. That is the Smoke bill and there has been
6 a letter of opposition received from the Department of
7 Consumer Affairs. The staff at Lieber's office is trying to
8 work with the Administration to resolve some of the issues.
9 And there's also a copy of that letter of opposition a
10 couple of pages back for your review. And then last but not
11 least is AB1997 and when I talked to the staffer yesterday,
12 she did not know if that bill was going to fly. It is the
13 Gross-Polluting Vehicles Replacement bill in the San Joaquin
14 Valley. And so bottom line, we won't know really on either
15 of those until probably next week.

16 CHAIR WEISSER: Questions or comments from Committee Members?

17 MR. DECOTA: Generally -

18 CHAIR WEISSER: Mr. DeCota.

19 MR. DECOTA: I'm sorry. Dennis DeCota. What generally was the
20 objection by DCA on the Smoke bill?

21 MR. CARLISLE: A couple of things; they didn't want to increase
22 it to \$1,500, nor did the Administration for that matter.
23 So there were amendments suggested to bring it down to
24 \$1,000.

25 CHAIR WEISSER: Now those were proposed by the Administration -

1 MR. CARLISLE: Yes.

2 CHAIR WEISSER: - or the author?

3 MR. CARLISLE: It was proposed by the Administration and agreed
4 to by the author.

5 CHAIR WEISSER: Okay. Go on.

6 MR. CARLISLE: One item they don't want the IMRC to review, the
7 results of the smoke testing. That's in the letter of
8 opposition.

9 CHAIR WEISSER: Why?

10 MR. CARLISLE: They feel it's redundant because evidently the
11 BAR would already do that.

12 CHAIR WEISSER: Okay.

13 MR. CARLISLE: They want the cost limit to apply, the \$450 cost
14 limit, regardless of income. They -

15 CHAIR WEISSER: Excuse me. The \$450 cost limit for smoking
16 vehicle repair?

17 MR. CARLISLE: Right, right. They want that to apply.

18 CHAIR WEISSER: What would be the impact of that, Rocky?

19 MR. CARLISLE: In my opinion -

20 CHAIR WEISSER: Yes.

21 MR. CARLISLE: - I think you'd end up - most vehicles that are
22 smoking would go to the referee for an exemption.

23 CHAIR WEISSER: Because to repair smoking vehicles is -

24 MR. CARLISLE: It would be too expensive. And the irony in that
25 is DCA is seeking a \$1 million reduction in the referee

1 contract. So that being the case, you're going to increase
2 the throughput at the referee and still ask for a reduction,
3 so I'm not quite sure how that all works out.

4 CHAIR WEISSER: Rocky, I think it's really helpful when the
5 Department shares with us their concerns associated with
6 bills. August 17th is six months after this year of the
7 session started. I don't think it's helpful to wait until
8 the last two weeks of the session to share your concerns
9 associated with the bill. Please continue.

10 MR. CARLISLE: The other provision they wanted to eliminate was
11 eliminating test-only eligibility for the CAP funds in spite
12 of the income.

13 CHAIR WEISSER: And this is to protect the sensitive souls that
14 live in Hollywood or something?

15 MR. CARLISLE: Evidently.

16 CHAIR WEISSER: I mean, what is the purpose of that, Rocky? We
17 are subsidizing people who don't our help.

18 MR. CARLISLE: Correct.

19 CHAIR WEISSER: What's the rationale? I'm sure they have some
20 good thinking that we haven't considered.

21 MR. CARLISLE: Their comment is this portion of the bill is
22 unrelated to the visible smoke test and unnecessary for its
23 proper implementation.

24 CHAIR WEISSER: So that we should continue to subsidize those
25 that don't need subsidies.

1 MR. CARLISLE: Right.

2 CHAIR WEISSER: It makes no sense to me.

3 MR. CARLISLE: And the reason it was put in there was to offer
4 savings to the CAP program so that money could be used to
5 repair smoking vehicles because the smoking vehicle repairs
6 would be more than the \$500 they currently pay for the CAP
7 program.

8 CHAIR WEISSER: Thank you. Any comments from any of the
9 Committee Members?

10 MEMBER DECOTA: Mr. Chair? Dennis DeCota.

11 CHAIR WEISSER: Mr. DeCota?

12 MEMBER DECOTA: I think it would be proper if the Committee
13 looked at these objections and made comment in writing to
14 the Department of Consumer Affairs with regards to their
15 opposition on this and also to the author of the bill.

16 CHAIR WEISSER: Well, I can assure you that the Committee has
17 been in conversation with the staff of the author of the
18 bill, as well as the other stakeholders. And I might add
19 this is a broad coalition of businesses and
20 environmentalists and - well, I can't say regulators because
21 apparently they've been effectively muzzled, but supporting
22 this measure. And for us to try to do something in writing
23 now, Dennis, my sense is the last couple weeks of the
24 legislature are always going to be a little bit behind the
25 timeline. However, if the bill is unsuccessful this year, I

1 think the sort of letter that you're saying back to the
2 Department might be able to establish a more common ground
3 to work together toward coming up with a piece of
4 legislation to address this issue. It's stunning to me this
5 sort of opposition to a measure to try to remove smoking
6 cars from our streets and roads. Stunning.

7 MR. CARLISLE: I should mention, Dennis, that we have been in
8 continual contact with the legislator's office via telephone
9 conference calls and also email.

10 CHAIR WEISSER: You want to see something in writing though,
11 right, Dennis?

12 MEMBER DECOTA: Yes, I do. And the reason for that, Mr. Chair,
13 is that unfortunately you will be leaving at the end of the
14 year and the Committee will be changing faces and over
15 periods of time it helps the future look at these types of
16 issues and learn from it.

17 CHAIR WEISSER: I'm going to concur with Dennis' sentiments, but
18 suggest that your efforts in terms of priority and writing,
19 I think it needs to go to our report first and then to the
20 notion of memorializing Committee reactions to these
21 objections that have been raised by the Department of
22 Consumer Affairs. Once again, I welcome the comments and
23 suggestions from the Department as I would from every
24 stakeholder. It would be helpful if they were kind of
25 shared in the beginning of the process, recognizing that the

1 Department works under a series of review levels before it
2 can take an official position on legislation. Not just in
3 this Administration, but in every Administration that I've
4 been associated with over 40 years in doing this stuff.
5 There are still opportunities to informally share concerns
6 early on in the process that the Department should have
7 taken advantage of so that we could have worked together on
8 this while the bill was working its way through the policy
9 committees, rather than waiting until the last two weeks.
10 When one waits until the last two weeks, my reaction is it
11 has to be intentional with the desire just to sink the
12 measure and thus I'm drawn to this bizarre conclusion that
13 the Department doesn't support getting smoking cars off the
14 road. It just doesn't make any sense to me. I know that
15 can't be correct, so I know that I'm not understanding
16 motivations here. Please continue, Mr. Carlisle.

17 MR. CARLISLE: That concludes the update.

18 CHAIR WEISSER: Thank you. Are there any comments from any
19 Members of the Committee or questions from Members of the
20 Committee? Perhaps we have some comments from members of
21 the audience. Excuse me, before you start, Jude?

22 MEMBER LAMARE: I just would add that we may want to memorialize
23 concerns after the legislative session is over and if the
24 bill gets worked out and passed and signed, we won't need to
25 be concerned with everything that was in the DCA letter, but

1 since we do have a report to finish and these things tend to
2 get worked out in the last couple weeks, I don't think we
3 need to memorialize in writing today.

4 CHAIR WEISSER: And that's what I'm suggesting is that our
5 priorities be put on our report, we wait and see what is
6 able to be worked out during the negotiations that are
7 taking place between the stakeholders, and hopefully all of
8 this will be resolved and we'll be able to write something
9 that memorializes success in getting a measure through that
10 meets the needs of the State of California. Under any
11 circumstances, I would urge that the letter talk about the
12 timing of input because I really do think it's just not a
13 way to play constructively in public policy. Now I'll ask
14 for comments from the audience. Mr. Walker and then Mr.
15 Peters.

16 MR. WALKER: Mr. Chair. Chris Walker on behalf of CAL ABC. We
17 have participated in discussions on this bill over the past
18 six, seven months and we brought to - and by the way,
19 although the letter was sent from the Department of Consumer
20 Affairs with their concerns on the bill, AB1870, it was
21 really the Bureau of Automotive Repair that was taking those
22 positions as a function the Department is conveying where
23 the Bureau of Automotive was on the bill. It was a source
24 of great frustration to me as the advocate for CAL ABC in
25 private meetings in discussions with the representatives

1 from the Bureau of Automotive Repair at the highest levels
2 that there was such a misunderstanding of what led to
3 smoking vehicles in terms of a disfunctioning vehicle and
4 what the correspondence repairs would be required to bring
5 that car into compliance, what the nature and scope of those
6 repairs would be. Clearly, clearly those repairs would push
7 the car, the repair, above the \$450 limit, thereby creating
8 an untenable situation that would take the smoking cars and
9 provide them an additional exemption to continue to have a
10 license to pollute on the streets of California for yet
11 another year. Time after time and time again, I tried to
12 impress upon the representatives of the Bureau of Automotive
13 Repair which are supposed to know what it takes to fix cars
14 in this state. They are supposed to be the foremost experts
15 and they just couldn't get it. And here we are. I'm
16 frustrated to hear on August 17th the author of the bill
17 received a letter conveying that they are concerned about
18 the bill, they want the \$450 cost limit to apply to these
19 failures speaks to them just not getting it when it comes to
20 auto repair. This is the Bureau of Automotive Repair. And
21 I hope with the regime change that's taking place, these
22 things will not be replicated in the future. Because again,
23 they reside within the Department of Consumer Affairs, but
24 they are charged with regulating the automotive repair
25 marketplace. They should know a little bit about what it

1 takes to fix a car. They should know about repairs and
2 vehicle function and how it relates to Smog Check. A very
3 frustrating point for me and for the association.

4 CHAIR WEISSER: Thank you. I think we all join with you in our
5 hope for a successor to Chief Ross to be that person that
6 kind of ends the revolving door that we've seen associated
7 with leadership at BAR. I think one of the ways to generate
8 expertise, understanding, and perspective in that sort of
9 position is tenure, some length of tenure, so they get an
10 opportunity to learn the issues and learn the business. And
11 I'm hopeful whoever is selected in both of these important
12 management positions, all of these important management
13 positions are folks that will hang around and have enough
14 time in order to learn the program and learn the issues.
15 Mr. Peters?

16 MR. PETERS: Yes, Mr. Chairman and Committee. I'm Charlie
17 Peters, Clean Air Performance Professionals, a coalition of
18 motorists. Interesting subject has been addressed here in
19 the last couple of minutes and that is the subject of cost
20 limit in the program. Mr. Chairman and Committee, maybe you
21 can tell me what that cost limit is and what it means and
22 whether or not it meets the criteria of the Clean Air Act
23 amendments of 1990 and whether it's optional to keep it
24 where it's at or in fact is required to change it to what
25 the Clean Air Act amendments require per the federal EPA

1 when this was coming down, which was a completely
2 unnegotiable issue, absolutely required process, that we
3 seem to totally ignore. So if in fact as I perceive,
4 instead of this being a cost limit, it is a cost minimum.
5 You have a car that is at a certain level, at a certain
6 position in its repair and it needs additional work and the
7 \$450 hasn't been spent, I believe the rules are that you
8 have to spend them. And of course that doesn't seem to be
9 on the table at all if we can't talk about anything but a
10 cost limit. And we certainly have refused for years to
11 address the possible legal requirement of the federal
12 government that in fact that is an escalating price over
13 time based on cost of living, which absolutely just floats
14 right by everybody and nobody even pays any attention to it
15 at all. Number two, the issue of the BAR chief's being a
16 different position as some sort of a permanent bureaucrat
17 that can sit there forever, seems to me as though the last
18 two chiefs have been removed because there was a huge effort
19 to get them removed. So whether this somebody is a
20 permanent bureaucrat or whatever, apparently everybody's
21 dissatisfied, apparently some people have been dissatisfied,
22 and just bound and determined to make their own opinions be
23 the opinion of the day. So that's an interesting question
24 as well. The behavior of the Committee in degrading people
25 into greeting the process rather than making suggestions and

1 evaluations in reporting is very distasteful to me and very
2 unprofessional from my humble opinion. Thank you.

3 CHAIR WEISSER: Thank you, Mr. Peters. The only comment I'll
4 make is related to the recommendation I heard you make
5 associated with the repair cut-off limit, the dollar limit,
6 and that has been an item of discussion, as you know, that
7 this Committee embraces the notion of adjusting that limit
8 associated with the inflation that's taken place since it
9 was set. That's my understanding is within the discretion
10 of the Bureau and I'm hopeful that it's something that will
11 be looked at. Any other public comments? Fine, thank you.
12 We will now move to a discussion of station performance
13 measures, but perhaps before we start, I should ask if this
14 Committee wants to take a short break for any purpose? Yes.
15 Okay. So we'll take a 12-minute break starting now.

16 - o0o -

17 CHAIR WEISSER: Okay. I'm going to ask the meeting to come back
18 to order, please. Okay. We're now going to have a
19 presentation on station performance measures and I think the
20 esteemed Marty Keller will be giving that presentation.
21 Rocky, is there anything you'd like to do for purposes of
22 introduction of this segment of our agenda?

23 MEMBER LAMARE: Is this No. 3?

24 CHAIR WEISSER: This would be No. 5. Oh, wait, in our book?

25 MEMBER LAMARE: In our book.

1 CHAIR WEISSER: Yes.

2 MR. CARLISLE: Yes. Mr. Marty Keller is former BAR chief and
3 now he is the director of the California Automotive Business
4 Coalition and he's been in that position for a number of
5 years.

6 CHAIR WEISSER: But maybe he's reapplying for his former job
7 here.

8 MR. KELLER: I appreciate the way that you have started rumors.
9 So, first of all, good morning, Members of the Committee. I
10 wanted to thank you for the service that you render to the
11 people of the State of California. I've worked with the
12 IMRC as many of you know for a number of years when I did
13 have the joy of being chief of the Bureau of Automotive
14 Repair and I know that basically it's a thankless job, so I
15 wanted to thank you for your willingness to hang in there.
16 I really believe that as frustrating as sometimes your work
17 may seem to be, I think in the long run it really does pay
18 off and has great value, so thank you. I also want to thank
19 you for being willing to enter into a conversation that in
20 our point of view could begin to look at a different way of
21 achieving the goals that we all have with respect to the
22 quality of our environment. This conversation about
23 performance and moving the program to being measured by
24 performance is not a new one. It's a conversation that I've
25 been involved in with a number of people, a number

1 stakeholders across the spectrum of interest in this program
2 for at least 12 months. And so when we were invited to come
3 share some thoughts, we were glad to have the opportunity.
4 It's just sharing some thoughts. We're not coming here with
5 a full-blown, well-thought-up proposal partly because it's
6 going to require all of us to make that very contribution
7 that you were expressing frustration that doesn't often
8 happen, that Dr. Williams was expressing frustration doesn't
9 happen, you get these full-blown things from some of our
10 professionals and then it seems like the train's left the
11 station and there's no opportunity to be involved. So we're
12 not here with some kind of full-blown recommendation, but
13 we've got some thoughts and ideas about what could be
14 valuable and I'd just like to frame it if I could in the
15 emerging conversation that's being directed by both the
16 legislature and the Administration on the whole question of
17 greenhouse gases and the question of global warming. And
18 whatever we may think about the definitive proof of this is
19 totally the result of manmade emissions or whether there's
20 something going on with sunspots, I don't know and I don't
21 profess to be in that world. But nonetheless, there is an
22 interest in taking on the issue. And so I believe that
23 there is a growing - and this Committee could actually take
24 the lead in seeing the growing nexus between the issues of
25 greenhouse gas and Smog Check. Because it all has to do

1 with respect of the world that we live in with vehicle
2 maintenance and ensuring doing our best to ensure that the
3 vehicles on the road are performing at peak efficiency with
4 respect to how they recycle and deal with emissions. And it
5 just so happens that having vehicles operate at peak
6 efficiency with respect to that is the same as operating
7 with peak efficiency with respect to gasoline consumption
8 and mileage. And so there is this moving consensus or
9 there's a possibility for consensus that these things are
10 coherent. So as we begin this conversation, just remember
11 that it's in the form of an inquiry. We raise some issues
12 that may resonate with you and with stakeholders or they
13 not. This is a speculative look at what could be possible
14 if we move this program to have at least some of the
15 elements, if not all the elements, focused on how well does
16 the system itself perform, which necessarily means how well
17 do we as stakeholders perform in the program. So our focus
18 today will be on indicators of station performance. That is
19 to look at some ways that we could measure and encourage by
20 the measurements that we derive changes in the behavior at
21 the level of the Smog Check professional. I hasten to add,
22 however, if that's the only thing we look at, we will have
23 an incomplete picture. I was actually thinking after the
24 conversation that you were having, Mr. Chairman, with
25 respect to the nature of turnover at the position of chief

1 of the Bureau of Automotive Repair that there needs to be a
2 consideration of performance measurement of regulatory
3 agencies because one of the things that I think has been a
4 shameful way of being has been the absolute lack of
5 partnership led by the government agencies in this program.
6 And I'm looking again, as you are, with these impending
7 changes perhaps a change in philosophy with respect to
8 partnership. Well, of course, what gets measured gets done.
9 And since we don't have any measurements in that area, there
10 are no obvious consequences of not having the full kind of
11 partnership leadership that would actually make a
12 difference. However, with that editorial note aside, we'll
13 move to looking at what stations can be doing. And one of
14 the things that we're looking at here is we have lots and
15 lots of data, we have lots and lots of assumptions about
16 data, but one of things that I continue to think needs to be
17 focused on is what does the system - what incentives are
18 created in the system for us as human beings to respond to.
19 So we know what Smog Check requires and we know that it's
20 actually aimed at specific measurable changes, that is
21 specific reductions in the amount of pollution that are
22 being put out by vehicles in the state of California. Well,
23 it seems to me that if that's what we're trying to do then
24 we ought to be able to measure all kinds of things that lead
25 to the measurement of how many tons are we taking out of the

1 air and not just look at that final measurement as the only
2 thing that we measure because all kinds of things go into
3 producing that result. And every one of those things we
4 submit could be considered for measurement. And that as we
5 derive measures, we can derive formulas that determine how
6 to use the information and the measurements that we derive
7 to change and drive human behavior. So for example, the
8 consumer must be motivated to seek a clean car, rather than
9 a certificate. Right now the incentive for me when I take
10 my car is to get it to pass so I can reregister my car,
11 period. It's completely disconnected from whether my car
12 pollutes or not. The test technician, regardless of whether
13 it's in a test-and-repair or test-only environment must be
14 motivated to professionally perform an accurate emissions
15 test. The repair technician must be motivated to
16 competently perform cost-effective and durable repairs.
17 What we want to see in all of these performances is we want
18 to see accuracy of emissions testing in both its first and
19 its last test stage, not the initial test that identifies
20 the failure, but the final test that identifies whether the
21 failures were - not only whether the failures were repaired,
22 but how well were they repaired. What was left on the table
23 if they were repaired merely to cut-point and not to
24 standard. Secondly, the thing we want to see is we want to
25 see competency in the repair side. Durability of repairs is

critical to the long-term success of our program. So we need to have the competency and then of course we need to have that durability that I just referenced. Durability of vehicle emission systems relies, back to the human factor, on the customer's willingness to pay for and the licensed Smog Check professionals to deliver accurate emissions testing and competent repairs. Regular preventative maintenance of vehicles ensures the durability of repairs. So with that as an environment or a background, we're looking at four items that we currently think could be used to derive some performance measures at the level of the station and the level of the technician. One is that we've been solely relying on is an indicator of something which is the failure rate and we think that there continues to be value and usefulness in the failure rate and there are some things that we need to consider about that as that has changed over the course of the last five to six years. The second thing we can look at is the tonnage of emissions reduced per station. We contend that the VID data should be providing a rich mind for us to determine on a station-by-station, and item number three, on a technician-by-technician basis. What's the actual results that these stations are getting and what are the actual results that a technician is getting by virtue of his or her work. And then finally, as we look at the performance, obviously how

1 well people perform with respect to the rules, regulations,
2 and laws needs to be considered as well, so the station and
3 technician disciplinary record needs to be taken into
4 account as well. So we're going to walk quickly through
5 some of the things that we think need to be taken into
6 account when we look at how to use failure rates in a
7 performance-based program. So this Committee is well
8 familiar with why failure rates are used as a measurement
9 and how they're established and the deviance between
10 expected failure rates and actual failure rates, indicating
11 testing accuracy. Expected failure rates per station is
12 based - if failure rates per station based, sorry about the
13 grammatical error there, on the average failure probability
14 of the set of vehicles that were tested at the station. And
15 then you can compare that against the actual failure rates
16 that were achieved with that set of vehicles. Of course,
17 failure rates are also influenced by the condition of the
18 vehicle being sent to a particular station and the accuracy
19 of the test performed by a technician working at that
20 station. And they're not predetermined by the station type
21 and as we will look at them, these indeed do change over
22 time. At the beginning of the program, when I was the BAR
23 chief and we implemented this, the generic test-only station
24 initially seemed to be better at failing vehicles in higher
25 numbers than the generic test-and-repair station. The data

1 showed this. Of particular, the data that were collected in
2 the roadside testing program, which provide us some real
3 world comparison of some of the other data that are
4 produced, particularly the VID data. Higher failure rates
5 obviously meant more cars are being sent for repairs and
6 higher scrutiny of post-repair emissions so that we could
7 book with the federal government and with ourselves, the
8 actual higher emission reductions in the program. That was
9 then. What's going on now? Well, in 2006, we're still
10 using the high-emitter profile by which we direct almost
11 three and a half million consumers to test-only stations for
12 testing still based on the assumption that a test-only
13 station does better and a more accurate job in measuring
14 both tailpipe and evaporative emissions in both the initial
15 and the post-repair testing. However, as this Committee and
16 others have begun to look into the HEP, there are some
17 questions about how well the HEP performs, meaning that the
18 failure rates determine - if we don't get the HEP to be as
19 accurate as possible, the failure rates that are assumed off
20 the HEP may undermine the value of the HEP and undermine the
21 value of the failure rate as the only indicator performance
22 in the program. Well, let's look at those failure rates
23 since we began. Between 2001 and this year the failure rate
24 at the test-only stations has declined 41 percent. The
25 failure rate at Gold Shield and CAP stations has declined

1 eight percent and the failure rate at test-and-repair
2 stations has increased slightly at five percent. So you can
3 look at this on a graphic basis. And the point that we're
4 making here is that as failure rates come down - and there
5 is no analysis as to why failure rates are coming down. Are
6 they coming down because cars are cleaner? Are they coming
7 down because the program is hyper-successful? Or are they
8 coming down for other factors that haven't been analyzed?
9 And if we don't know that, then we don't the value of
10 failure rates as a sole indicator of the performance of the
11 program. I would like to think that the purpose of the
12 program is to have a zero failure rate. That is to say
13 every car passes. Which means that no car is putting out
14 excess emissions. But we don't know. Failure rates between
15 the three station types, as you can see from the graph we
16 just put up, have been converging since 2001. And so the
17 perceived advantages of the program of higher failure rates
18 as tested with what CARB said its report in 2000 seems to be
19 diminished. Test-only station failure rates still appear,
20 as the data showed, to be slightly higher than those
21 achieved at Gold Shield and test-and-repair stations. Can
22 this difference be explained by the fact that 60 percent of
23 the vehicles tested by test-only stations come from HEP? To
24 determine this, we have to look at the failure rates for
25 like-vehicles. In other words, we have to look at all non-

1 HEP vehicle failure rates to determine again what are we
2 learning from failure rate. Well, we were able to obtain
3 BAR data for the HEP in the month of January 2005 and what
4 it showed was that vehicles directed off of the HEP failed
5 at test-only stations at a rate of 21.12 percent and the
6 overall vehicle failure rate using BAR data off the
7 Executive Report for the same month at test-only stations
8 was 17.5 percent. So using these data, we could derive what
9 the non-HEP failure rate was for the entire program. Non-
10 HEP failure rate at test-only stations was 12.2 percent,
11 non-HEP failure rate at Gold Shield stations was 14.1
12 percent, and non-HEP vehicle failure rates for test-and-
13 repair was 11.5 percent. So based upon the failure rates,
14 Gold Shield stations appear to be performing the best in
15 identifying failing emission systems for non-HEP vehicles.
16 But again, we don't have enough back-up data to determine
17 whether these indicators have value in creating a
18 performance criterion. We suggest that roadside data for
19 this period of time, that is dealing with the cars tested in
20 January of 2205, will be able to help us evaluate the power
21 of using the actual failure rates versus the expected
22 failure rate, which is established in the HEP as the target
23 for all of those in the various environments, whether
24 they're test-only, test-and-repair or Gold Shield. So what
25 we're saying here is that the failure rate, while it's

critical and important to creating a performance measure really need to dig into some of these data and look at what they're actually telling us today. Because to rely on the failure rate alone seems to not indicate enough of what we think we need to do in order to get at the issue that we're raising here, which is the way human beings, we, react to what the incentives are set up in the program. Because as I said at the outset, if all I want to do is get a passing certificate, then I have an incentive to drive down the failure rate whatever way I can and I don't know that's what I'm doing. So when the consumers' incentive is a passing certificate, the result is the least amount of investment in repairs to pass a vehicle. So I want to do is to spend the least amount of money to get my car registered at DMV. But ideally, what should the consumer's incentive be? Well, ideally my incentive as the owner of a vehicle should be to maximize the reduction of pollution and maximize the efficiency of my vehicle in burning fuel and in dealing with evaporative emissions. And the result of that would maximum pollution reduction per vehicle. What are the stations' incentives right now? Well, the stations' incentives are happy, paying customers. What would the ideal stations' incentive be? Customers motivated to purchase maximum repairs for failing vehicles. So again, keeping in mind what the incentives are in the program and keeping in mind

1 that if we want to have a performance evaluation that
2 actually now moves beyond failure rate as the only indicator
3 to looking at on a per-station and a per-technician basis,
4 the amount of emissions reduced and taking into account the
5 licensing and disciplinary record of both the station and
6 technician, we can begin to see the outlines of not only a
7 way to measure performance that is more focused on real
8 world data, but now we can enter a speculative world of what
9 happens to the incentives, the marketplace incentives, when
10 these data are made public. So a couple of notes before we
11 look at that. Actual tonnage can be calculated using BAR's
12 VID data in comparing individual station performance in
13 reducing emissions to other Smog Check stations working on
14 similar vehicles both on a regional and statewide basis. In
15 other words, we could derive an actual tonnage amount per
16 station and we could take station with the most tons reduced
17 and we could make a list all the way to the down to the
18 stations with the fewest amount of tons produced statewide.
19 I don't know that that listing alone tells us what we need.
20 So we need to look at various ways of stratifying and
21 analyzing those data so that the performance indicator of
22 tonnage reduced tells us something of value. And this is
23 where we invite our fellow stakeholders to begin to
24 speculate with us. How would we categorize a number of
25 these tonnage reduction numbers so that they yield a

1 comparative value on a station-by-station or a technician-
2 by-technician basis that tells something of value, that
3 tells us something about performance. The capacity to do
4 that exists. The capacity both to create a tonnage
5 derivation per station and per technician exists and the
6 capacity for us to think through how we could turn these
7 into ratings that tell us something and tell the public
8 something exists. That's the work that I think we need to
9 do. And we also think that these data need to be refreshed
10 on a six-month basis. Once the initial work of setting up
11 the analytical function is finished, and that's going to be
12 a one-time investment, then we ought to be able to replenish
13 those data on at least a six-month basis. Maybe there's
14 some value at looking at doing it quarterly, maybe there's
15 only value at looking at doing it annually. These again are
16 questions I think that we would need to consider as we enter
17 into the discussion. The same questions or concerns obtain
18 when we talk about looking at tonnage of emissions reduced
19 per technician, rather than per station. And we talked
20 earlier about why we think that the disciplinary records
21 need to be part of the performance evaluation. So as we
22 look at these suggestions and we say to ourselves or we ask
23 ourselves why would we even bother to take on this. After
24 all, A, it's a lot of work. It's not something that the
25 Bureau of Automotive Repair currently does and so it would

1 take as I said an investment in changing the way the
2 analytical information is derived. It would require a
3 change, I think, also in philosophy with respect to
4 transparency and disclosure. It would require the stations
5 to be willing to have these data published and sent to the
6 public. So there are a lot of things that we would all have
7 to think about because there's dramatic changes afoot when
8 you begin to create this kind of approach to performance
9 evaluation. It has to be public in order for it to
10 intervene into the incentives and that's one of the things I
11 want to just conclude with here. Since market incentives
12 are real, they need to be taken into account if we want to
13 maximize tonnage reductions. Public information about
14 station performance can influence and does influence market
15 dynamics. So as we talked about the elements of station
16 performance, one of the things that we look at, and I didn't
17 make a slide on this and I apologize, it's in the paper,
18 about how the public information can change public behavior.
19 So what would happen to market dynamics when this kind of
20 information is provided to the public? How would such
21 innovative approaches reinforce say BAR's Breathe Easier
22 campaign and increase awareness of the need to address the
23 greenhouse gas problem. One of the things that happens is
24 when you create a public performance rating, you are both
25 having an input and an output. So the output is the

1 information, but the input is how people respond to this
2 information. Would stations, for example, who are
3 performing well, begin incorporate that in their marketing
4 and their sales strategy? Would consumers be willing to
5 look at a station based on its performance as repair
6 efficiency? Would there be a change then in the way the
7 media addressed the program? Would the information about
8 who does it the best become part of the public conversation?
9 What would happen to the market incentives if this becomes
10 the public conversation? So there could be a whole list of
11 feedback loop created by a performance program where having
12 these data available to all of us, to make evaluations and
13 terminations about how we will behave individually in this
14 system can have a dramatic affect on all of it, particularly
15 as we begin to bring in the conversation whether that's done
16 through Smog Check or whether that's done through BAR in a
17 different capacity, whether that's done through the Air
18 Resources Board in its capacity, whether its done through an
19 amalgamation or a coalition of a number of interests across
20 the state in terms of fuel efficiency and maintenance with
21 the vehicle for the purpose of reducing and contributing to
22 the reduction of greenhouse gases. We begin to see, or at
23 least I hope you begin to see the outlines of a loop of
24 information and behavior that comes from knowing because one
25 of the other things that we can derive and because we're

1 focusing on station performance, we didn't put this in the
2 slide, but another thing we can derive is public information
3 about the behavior of my car and those data can actually be
4 published. You could, for example, when we get our Smog
5 Check certificate report, we could have something on there
6 that says if you maintain this vehicle for the next two
7 years, you will have reduced X amount of tons or pounds of
8 pollutants because of your behavior, and begin to tie the
9 individual owner's behavior to the stations' behavior and so
10 the conversation is about actual real world changes in
11 vehicular pollution. If it's just based on failure rates at
12 the end of the program, I have no personal responsibility,
13 there's no connection to me, all I want is my certificate.
14 And the stations continue to be caught in that never, never
15 land between being required to enforce the law in order to
16 maintain their license and the demands of their customers
17 for something less than an optimum Smog Check and repair.
18 So this is a lot to absorb and I appreciate your patience
19 and willingness to hear some of our thoughts. Again, we see
20 this as the opening of a conversation, but we don't see any
21 way to avoid moving toward measuring performance and tying
22 in incentives to the way we measure performance if we're
23 going to maximize the value of this program, particularly
24 with the greenhouse gas challenge facing us. It's all tied
25 together as we see it and we think that public disclosure of

1 performance data is a critical element in that.

2 CHAIR WEISSER: Well, thank you, Mr. Keller. I'm certain we
3 have many questions and comments that will be coming from
4 Members of the Committee and the public.

5 MR. KELLER: I hope so, otherwise I didn't say anything.

6 CHAIR WEISSER: So let me open it up for any comments or
7 questions that folks might have. And we'll start with Mr.
8 Pearman.

9 MEMBER PEARMAN: First, on the chart on failure rates by station
10 type, which is on Page 6 in our material, what's the source
11 of that data? Is that your organization's analysis of the
12 BAR HEP data?

13 MR. KELLER: Yes.

14 MEMBER PEARMAN: Okay.

15 MR. WALKER: The station failure rate for 2001 through 2006 was
16 derived from the BAR's Executive Summaries found on the
17 website. What we did was we took the January of each year
18 as just kind of a sampling, a snapshot in time, to show the
19 general trends of what was happening with failure rates.

20 CHAIR WEISSER: Thank you, Mr. Walker.

21 MR. WALKER: That's the January data for each year.

22 CHAIR WEISSER: Okay. If we could ask you to identify
23 yourselves before speaking, it will help the transcriber
24 reduce the Prozac level of her -

25 MR. WALKER: That was Chris Walker. Yes, sorry.

1 MEMBER PEARMAN: And then you had a chart on Page 9 of our
2 material, program focus on actual pollution reduction, and
3 you talked about the ideal consumer's incentive, ideal
4 station incentive. First, is this like a theoretical, like
5 if the focus of the program was actual pollution reduction
6 then the ideal incentive would be as you set forth here, is
7 that -

8 MR. KELLER: What we tried to there is we tried to make a
9 comparison between what is there now versus what ideally we
10 would want to see if the program were operating at optimum
11 efficiency. That is to say that what I, as a vehicle owner,
12 my incentive should be, not merely to get my certificate,
13 but to make sure that my car is operating as efficiently as
14 possible so that the maximum of pollution reduction occurs
15 by my behavior.

16 MEMBER PEARMAN: Well, I guess my only comment is under that
17 lofty goal of the program I can understand the ideal
18 consumer's incentive maximizing pollution reduction. It
19 seems to me that the ideal station incentive is customers
20 motivated to purchase maximum repairs. That seems more
21 profit-oriented and less directed to maximizing pollution
22 reduction. It doesn't talk about efficiency or even say the
23 repairs are necessary so I find a bit of a disconnect
24 between what you describe as the stations' incentive and its
25 ideal circumstance and the consumers. One seems truly

1 idealistic and one seems pretty bottom line to me, which is
2 a bit troubling.

3 CHAIR WEISSER: This is Vic Weisser. I think that really
4 identifies what Marty is trying to bring forward, is that
5 the overall program goal is faced with a series of
6 incentives and disincentives that don't necessarily support
7 achievement of that program goal. He's - and I want to
8 compliment you on this. I like how you're framing this as
9 the opening up of a public conversation on it. He doesn't
10 have any silver bullets yet. He's tossing out some ideas
11 and raising what you've identified as kind of a potential
12 conflict in incentives that need to be kind of thoroughly
13 discussed and carefully thought through. At least that's
14 how I'm reading it.

15 MR. KELLER: I appreciate that and I think one of the challenges
16 in the program is it's continuously riddled with
17 contradictions and interest. And so what we're looking at
18 is what would happen to the way we all respond to our
19 incentives as we perceive them if these were the data that
20 were available and these were frameworks around which the
21 conversation was taking place. Again, right now there's a
22 complete - everyone's disconnected from the goals of the
23 program. Even in certain ways, the regulatory agencies are
24 disconnected. And so what would it take to connect it all
25 holistically is the inquiry here. I wish I had a silver

1 bullet. If I did I'd probably be punchier in my
2 presentation.

3 CHAIR WEISSER: Overall, Marty, what I'm hearing you suggest as
4 one major avenue of inquiry is can the provision of
5 information act to align incentives' behavior with program
6 goals. And that's kind of the open question. Will
7 information align behavior with program goals.

8 MR. KELLER: Well, I would assert information already does.
9 It's a certain kind of information, so our question is how
10 about other kinds of information.

11 CHAIR WEISSER: Well, it has to be pretty careful because, see
12 I'm a consumer, I'm going to search the program, the station
13 that has the lowest failure rate in the state.

14 MR. KELLER: Exactly. And that's why these are really important
15 questions for us to look at. I think the primary question,
16 however, is it possible to tie all of us and the way that we
17 behave in this program holistically to the goals in the
18 program.

19 CHAIR WEISSER: Yes, beats me. At this time, Mr. Pearman, do
20 you have some further questions or comments?

21 MR. PEARMAN: Yes, and also I didn't get the reference to
22 various stratifications under the, for example, tonnage of
23 emissions reduced per station. What were you referring to
24 there?

25 MR. KELLER: What I was getting at is as we derive conglomerates

1 of information about let's say per-station tonnage
2 reduction, if you just have a list from the top to the
3 bottom, does that tell us enough about station performance.
4 In other words, why is station A the top-performing station?
5 Because that station might be in Canoga Park and maybe it
6 has something to do with the kinds of vehicles that come to
7 his station. So ratings need to have some way to compare
8 like to like.

9 CHAIR WEISSER: You kind of have to normalize the data one way
10 or another.

11 MR. KELLER: Exactly. So when I say stratification, what I mean
12 is we have to look at different ways of analyzing the data
13 to derive values that cohere with what we're trying to do
14 with the information. So, all I'm saying is just starting
15 from station one and going down to station 5,000 probably
16 doesn't tell us enough, or from technician one to technician
17 11,000. It probably doesn't tell us enough.

18 CHAIR WEISSER: You know, McDonald's have their signs up over 26
19 quadrillions sold and that's just kind of a gross measure of
20 burgers and it doesn't say how many burgers per person sold
21 or anything like that. I can see a station wanting to
22 advertise that it had reduced X number of tons. Now that
23 maybe as a result of it getting 10 times the business that
24 its neighbor station or whatever or the dealer. There are
25 all sorts of things as we've seen from Jeffrey's data along

1 the way that you need to kind of look at so you're comparing
2 like to like. There are a variety of different measures per
3 vehicle, per like-type vehicle, that sort of thing. You're
4 opening a door and I'm appreciative of that. Mr. Pearman?

5 MEMBER PEARMAN: And have you investigated whether any other
6 states have tried these other methods of performance
7 evaluation?

8 MR. KELLER: I have not. I know that under the Clean Air Act
9 amendments that states were required to create a report card
10 and this was originally designed for when there was
11 centralized test-only and the idea was that as you left the
12 station with a failing vehicle, you would get a list of - or
13 you'd get a report card for the stations in your area and
14 then you would determine based on the information, which
15 supposed to be a performance rating, where you would take
16 your vehicle. I have never talked to the guys in Colorado
17 or Arizona to find out whether A, they did it, and B, how
18 well they're doing it. So if they did it, it might be
19 something that we could shamelessly steal from. If not, we
20 may have to invent it.

21 CHAIR WEISSER: I'm not sure, but my recollection is that that
22 never got off the ground anywhere because I kind of drafted
23 a piece of legislation to do that in California and it was
24 kind of thrown back in my face, you can't do that, you're
25 going to get soon, blah, blah. Anyhow, we'll go to our next

1 Committee Member, Mr. Hisserich?

2 MEMBER HISSERICH: Well, following along on the same vane here
3 about what motivates, it might be instructive to look at
4 other rating schemes and how they influence. For example,
5 obviously the one that comes to mind is the rating schemes
6 for restaurants A, B, and C, but there the incentive really
7 is I'm less likely to get ptomaine poisoning if I go to an A
8 than a B. Similarly, the rating schemes for physicians that
9 are now available on the web. If you're suddenly faced with
10 an illness, you can go find out if the doc you're going to
11 what their lawsuit record has been. As desirable as it may
12 be to have people going to the place because it will reduce
13 greenhouse emissions, I think that will motivate only the
14 few Volvo owners in the area around Silverlake where I live.
15 The rest of the folks are looking for low cost and get me
16 out of here on time and don't fail it. So I'm trying to
17 figure out if there's a way to come up with a scheme that
18 sort of puts - it's frankly the more negative connotation of
19 what's going to happen if you go to a badly rated place. I
20 don't have that yet, but it would be useful to figure
21 through how that might work. I wish as we were sitting here
22 we could come up with it, but I think that's the real
23 motivator.

24 MR. KELLER: One thing you could begin to consider is are there
25 rewards that you can give to higher-rated stations or

1 technicians that make it a value for those who aren't there
2 to change their behavior to get there.

3 CHAIR WEISSER: Thank you. John, anything further?

4 MEMBER HISSERICH: No, I don't think so.

5 CHAIR WEISSER: We'll go to Roger next.

6 MEMBER NICKEY: I have some comments as this went along here. I
7 noticed, however, that half of the pages or slides in this
8 all have to do with failure rates and we've discussed in the
9 past and I'm sure you all know my feelings about using
10 failures rates as a measure of performance. They're too
11 easily manipulated. For instance, very small volume places
12 can manipulate their failure rate by one or two more
13 failures and since it's so open to manipulation, that's a
14 little suspect as to accuracy. As to accuracy, just one
15 little note that popped into my mind, we get many cars in
16 that have failed the test, gotten repairs, the customer
17 comes back, they've got to pretest after repairs, we run the
18 test, and it's totally different. Now of course the
19 customer's thing is well, how could it be so different?
20 Well, I don't know. All we did was run the test. I don't
21 know what conditions the pretest was run under, I don't know
22 what they did at the time, I have no idea. But to the
23 customer, it's like what the heck is going here, what is
24 wrong with this test that I would be so different each and
25 every time. Performance indicators, not once was anything

1 mentioned in here about the customer satisfaction with the
2 process. In other words, was I inconvenienced, did I feel
3 like I was ripped off, did this take too long, did I have to
4 come back for an appointment two or three days later,
5 whatever. Nothing in here is addressed to customer
6 satisfaction. Station and technician disciplinary record, I
7 find that the Bureau has a tendency to whack you up for your
8 failures on undercover vehicle runs. There's never a
9 mention ever made of how many vehicle runs were made on your
10 facility that you actually did good on. I mean you could
11 have nine trips in there by undercover cars and everything
12 was just fine, all of a sudden you had one where somebody
13 was asleep and it failed, and that's the one they focus on.
14 They don't ever take into consideration how many runs that
15 you had that you passed on or were good. Failure rates also
16 have a lot to do with technician judgment. There's a lot of
17 subjective stuff with the visual. Is this hose cracked or
18 is not cracked. I fail it, you won't fail it. There's an
19 awful lot of subjective information. Even ignition timing,
20 should be cut and dry, but it all depends on how you look at
21 the mark. If you're right close to the limit, one degree
22 one way is a pass, one degree the other way is a fail. One
23 technician looks at it and says it looks good to me, the
24 next technician says no. And I would like to know what an
25 expected failure rate is. This sounds to me like the

1 customer comes in and says this car should pass because it
2 passed last time. The reason we have a test is because we
3 want to establish that. I don't know how you would expect a
4 failure rate.

5 CHAIR WEISSER: In fact, isn't that what's implied in the HEP as
6 an anticipated failure rate? Those are great questions,
7 Roger, all of which are the sorts of things that ought to be
8 talked about.

9 MEMBER NICKEY: I have one more.

10 CHAIR WEISSER: Please. If you take a deep breath, I'm there,
11 Roger.

12 MEMBER NICKEY: I was warming up to a conclusion when I had one
13 left to go. This is the first time I've seen this
14 information about the failure rate in test-only going down.
15 The first thing that jumped into my mind was test-only tests
16 so many more vehicles, I'd say the pool, just guessing, the
17 pool you probably have, at least in my case we get a lot of
18 vehicles that are newer and less likely to fail the test.
19 And a lot of those customers come to us because they've got
20 newer cars, they have no relationship with a repair shop
21 because they haven't needed any repairs. All of a sudden
22 they get a notice for a Smog Check and it's like, where do I
23 go? Well, I see this place and all they do is Smog Check,
24 that looks like a good place. I don't want to go down to
25 Joe's repair shop because I don't even know the guy. I've

1 never been in there. I just don't know, but I want to go to
2 a Smog Check place. So it's possible they may get a higher
3 volume of vehicles that are less likely to fail a test,
4 which in some ways may have driven the failure rate down a
5 little bit.

6 MR. KELLER: And you see that reflected in the comparison
7 between the HEP failure rate and the non-HEP failure rate at
8 test-only.

9 MEMBER NICKEY: Well, and I didn't consider that. Sometimes
10 things jump into my mind that I - I do this on a daily basis
11 and we do get a very large volume of cars that are later
12 model, of course, we're in Folsom, the demographic there is
13 probably a little better than some of the other places, but
14 our failure rate is probably within a tenth of a percent of
15 everybody else in town because I watch it every month to see
16 what the other shops are doing and we're all pretty close.
17 Some of the dealerships probably have a less of a failure
18 rate, but for the most part, with all the repair shops,
19 we're all within the same ballpark.

20 CHAIR WEISSER: Okay. I'm going to ask Gideon to share his
21 thoughts and questions and comments.

22 MEMBER KRACOV: I do think the idea of trying to get the
23 consumer to focus and buy into a vision of the program to
24 reduce air emissions as opposed to just getting the
25 certificate does have some value. I just have a couple

1 questions for refining some of the stuff that you've done
2 here. For the folks that go in their car and they get
3 tested and their car passes, do you propose to give them
4 also some kind of calculation as to emissions reductions?
5 How would you do that in that situation? I can understand
6 when you're repairing the car.

7 MR. KELLER: I think if you've passed, you're not required to do
8 anything about that. So the question would be what could we
9 do to incentivize keeping it a passing vehicle going
10 forward. So that might be something worth looking at.

11 MEMBER KRACOV: And that's the second sort of question that I
12 had and the last point is this durability issue that you've
13 brought up. It seems to be a very important issue, you know
14 one that we're constantly looking at. It's something we
15 hear a lot about from Mr. Peters also that one way to look
16 at the durability is really do these audits and really
17 follow-up on the durability of the repairs and really focus
18 in some manner on checking and double-checking the repairs.
19 You speak about the durability here sort of in line with
20 this consumer buy-in perspective that if the consumer buys
21 into this and wants to have their vehicle clean and wants to
22 reduce air emissions that they're going in regularly,
23 they're going to repair their vehicle better and I think
24 that's understandable. But do you have any other ideas on
25 how, for example, I'd like to know your thoughts on this

1 audit or retesting approach as to how we can better ensure
2 the durability of the repairs?

3 MR. KELLER: Well, the inquiry that we're raising here is about
4 the impact of public information on that, whether you can
5 design program elements that reinforce follow-up, help deal
6 with the shifts that you are seeking to create should be
7 looked at. I don't know about a particular - in theory,
8 there could be some value to looking at that. The other
9 thing I just wondered if might just piggyback on your
10 earlier comment is one of the major differences between the
11 world that we lived in when we started Smog Check and the
12 world is that gas is \$3.00 a gallon and we're beginning
13 already to see changes in behavior that the marketplace with
14 respect to people now looking at buying hybrids, so
15 behavior's changing with respect to market conditions and I
16 think part of our inquiry is how can we take advantage of
17 that with respect to this program.

18 CHAIR WEISSER: Let me throw out a - postulate a hypothetical.

19 If when you received your test and you pass, and 85 percent
20 of the cars pass, you also got a piece of paper that said
21 here's how your car performed, which you do now. It tells
22 you, you'll see how many grams per mile for various things.
23 If that paper also said this type of car, assuming you had
24 more cut-points, if maintained properly would be expected to
25 perform at this level and if your car was maintained at this

1 level, you would able to save the emissions of X number of
2 pounds of different pollutants and that also said if your
3 car was operating at higher efficiency, or highest
4 efficiency, gas mileage might get improved 6.2 percent.
5 Then you're starting to provide the public with some
6 additional information. Listen, I don't know what the
7 answer are in terms of what information actually might
8 motivate behavior, but I know that without any information,
9 you don't motivate, you're not informing people on
10 alternatives that they have. The only information you
11 really have now is pass, don't pass, that kind of thing.
12 And once again, I don't think Marty came here with the
13 notion that he's got a rifle filled with silver bullets.
14 He's coming here saying we've got a situation where the
15 program goals are not really aligned with the program
16 participants' incentives. What is it that we can do to
17 bring those in alignment. So I'm quite - I want to
18 compliment you. Gideon?

19 MEMBER KRACOV: And I agree with that. Just one little
20 additional point. How would you measure the emissions
21 reductions from the vehicles? Would you use an M-fact model
22 where you'd be able to use the actual determinations that
23 you got from a specific vehicle test; do you know?

24 MR. KELLER: I'm a recovering bureaucrat, so I think I'd leave
25 that to the scientists who would know how. I don't know.

1 MEMBER KRACOV: But I guess in the end -

2 MR. KELLER: But I understand there are ways to derive these
3 formulas that already exist.

4 MEMBER KRACOV: And I guess at the end of the day then if you
5 added up whatever reductions you got from the vehicles that
6 passed, plus this reduction from the vehicles that didn't
7 pass with the repairs that you're showing the consumer
8 arguably those things should add up to the global number and
9 the M-fact calculations, right? Gosh knows if those things
10 didn't match up where we would be. But anyway, that's just
11 a thought.

12 CHAIR WEISSER: They rarely do, Gideon. We're going to slide
13 down to Jeffrey now. We'll come back to you, Roger, after
14 everybody has a chance.

15 MEMBER WILLIAMS: Actually that fits what Gideon was just saying
16 with the point I was going to ask. Let's imagine the
17 consumer has information having failed from the parts per
18 million and other things. It's a fairly straight forward,
19 if perhaps not perfectly accurately, calculation to say
20 given the mileage that the consumer has been driving that
21 vehicle to say how much pollution he has. So you could say
22 in tons, I don't think anyone's relate to grams per mile,
23 but you could say over the next month you're causing
24 pollution that costs the State of California X dollars. And
25 if X is a big number, it might get people's attention that

1 maybe they should do the repair. I shudder at the thought
2 that if X is like ten cents or something like and they're
3 going to say you're going to make me \$450 for a repair, but
4 if it's costing the State of California indirectly, \$1,000
5 to have that car on the road for the next year, maybe people
6 will respond. That information is in the test. We don't
7 convert it to something the consumer can see. I don't see
8 why we don't. We ought to know it, too.

9 MR. KELLER: We don't because it's not - we haven't made it a
10 requirement of the program.

11 CHAIR WEISSER: Well, we also don't, if I might, because we
12 don't accurately price pollution.

13 MEMBER WILLIAMS: Yes, but the consumer is paying a price for
14 the repair and -

15 MR. KELLER: And the test.

16 MEMBER WILLIAMS: - and the test. And if there's no comparison
17 there, the consumer should ask, right?

18 CHAIR WEISSER: Oh, I don't disagree. The part of about this
19 whole thing that kind of intrigues me is this opening of the
20 door to a type of discussion that makes you take three or
21 four steps backwards and to try to get perspective of what
22 the program's aims are. And it seems to me that a golden
23 opportunity is potentially being presented to the incoming
24 management of BAR and the management of ARB to think about
25 convening some sort of effort involving stakeholders to do

1 just that, to take these steps back and look at this
2 potential need to align program goals with the individual
3 stakeholders' incentives a little bit better. I think it's
4 a noble task, one that I look forward to seeing you
5 undertake.

6 MR. KELLER: If I might just make a quick comment. About three
7 years ago, maybe four years ago now, our organization sat in
8 a conversation with Norm Cavell, a former member of your
9 board, and we were looking at, because of the acute problem
10 that Sacramento has with respect to the percentage of its
11 emissions that are vehicle or mobile source, we had a
12 conversation about creating something we called an AMO, an
13 automotive maintenance organization, and we were looking at
14 were there ways that we could engage the stakeholders in the
15 Clean Air partnership here through incentives to incentivize
16 regular maintenance of vehicles. And we had to have these
17 kinds of conversations so there are actually some
18 preliminary papers on that that we could share with the
19 Committee if you would like to dig into some other ways of
20 looking at and creating an infrastructure of a focus on
21 maintenance that all the stakeholders have a share in
22 creating. So what would be an incentive? Our initial
23 approach to that was looking at this as an employee benefit
24 and how could you set up an employee benefit -

25 CHAIR WEISSER: I never thought of it.

1 MR. KELLER: - around maintenance.

2 CHAIR WEISSER: That's a very creative idea and I'm sure there
3 are dozens of creative ideas that might come out of such an
4 inquiry. Rocky, would you work with Marty to try to get the
5 files that he's talking about? I'm curious as to what sort
6 of hair-brained ideas came up. That's what we need. We've
7 got a program right now where three-quarters of the money
8 that the State of California citizens are spending is for
9 inspection and 25 percent is for maintenance, which actually
10 improves the air, the only part that actually improves the
11 air. The testing makes sure people are keeping their cars
12 maintained. It would be terrific if we could identify ways
13 to align consumer behavior better with program objectives
14 leading me now to our friend at the far right.

15 MEMBER WILLIAMS: Let me finish.

16 CHAIR WEISSER: Oh, excuse me. Jeffrey?

17 MEMBER WILLIAMS: I have one more comment and if anything
18 reinforced your point that we need multiple measures of
19 station performance, perhaps because of my focus on the 87
20 VW Golfs, I think a major part of this program is that
21 people get their test results and say, you know, it's time
22 to say goodbye to this car. You measure station performance
23 solely by whether a station is able to repair the car. I
24 think the technician or the station that's persuading people
25 to say goodbye to their elderly high-polluting car is doing

1 a huge service, too, and we're not measuring that and that's
2 part of the emissions benefits. We ought to look at that,
3 too. I'll flip that around to say what induces consumers to
4 make the decision to retire the car and it might be, I don't
5 know that people respond, but it's in line with what you're
6 suggesting that if we could incentivize things better or
7 give more information, what if people knew that among the
8 pollution category 1982 to 1985, I think that's one that of
9 the number of vehicles over the last four months with a
10 score this high, 50 percent of other people decided to
11 retire the car.

12 CHAIR WEISSER: So you're suggesting giving pretest information
13 to consumers.

14 MEMBER WILLIAMS: Yes, if they got these scores or that they
15 have failed. Other people in similar situations decided to
16 retire their car or repaired it and the typical repair bill
17 was - that might actually get people to think about what the
18 pollution is.

19 CHAIR WEISSER: Very interesting. Any further before I -

20 MEMBER WILLIAMS: We've had that information, we're just not
21 using it.

22 CHAIR WEISSER: See, I think a lot of kind of creative thinking
23 can take place if this subject were opened up. Are you
24 quite done now? Bruce?

25 MEMBER HOTCHKISS: Well, I have to say that I agree with the

1 Chair and as I listen to Marty's presentation, I just
2 thought that someone should be having some brainstorming
3 workshops to expand on these ideas and if you are
4 brainstorming, it's really kind of inappropriate to be nay
5 saying right away. The idea is to get as many ideas out as
6 you can and see which ones work. Having said that I'll say
7 I see a potential problem with the emission reduction per
8 technician in that we only track the technician to test the
9 vehicle and in a lot of cases, he isn't the guy who fixes
10 it. And unless we can come up with tracking the technician
11 that actually does the repairs, I see problems there. But I
12 would love to see some workshops with all the stakeholders
13 involved, throw out some ideas, because you've presented a
14 really good starting point to just take off because we
15 certainly do need more tools to measure performance than
16 just failure rate.

17 MR. KELLER: As you know, one of the long-time headaches that
18 BAR has had is getting the repair technician to enter all
19 the data. So what if the incentive were to disclose this
20 because there is a reward because there was some reward for
21 how much pollution you reduced by virtue of your repair
22 work. That might people's reluctance to do that.

23 CHAIR WEISSER: Incentive like vehicle direction or something,
24 not that I dare raise that here. We'll go to Mr. DeCota,
25 our nonsmoking member.

1 MR. KELLER: Is this something new?

2 MEMBER DECOTA: Yes, I quit about two months ago, Marty, a
3 little over two months.

4 MR. KELLER: I guess the Department's against that.

5 MEMBER DECOTA: The most excited person I've met so far is Vic,
6 so I hope that I can inspire him to go down that road.
7 Dennis DeCota. Marty, I think that the presentation is
8 excellent. I think the paradigm has to be the mental
9 attitude toward Smog Check and vehicle maintenance. You
10 know, it was not a real popular item to take our garbage and
11 separate and put it into different containers and recycle as
12 much as we could until it became the drive of the grade
13 school children to sell it to their parents as a concept and
14 it's worked. People are very, very conscious about
15 recycling and it's very important. We need to make them
16 that conscious about maintaining the health for their
17 children by teaching the children and putting these programs
18 forth. And I know that BAR has done these type of programs
19 in elementary schools and it works, but we have to have a
20 fundamental change in the attitude toward Smog Check and I
21 think this presentation goes a long ways in doing that. You
22 can use incentives, you can dream forever, but how about a
23 car that fails by a certain rate and the expense to repair
24 it to go the extra mile and that consumer receives their
25 next Smog Check at no cost. We could afford that in the

1 system. It would be incentive-based. Or we could help them
2 through a CAP station or to find the replacement vehicle and
3 scrap the car that cannot be repaired cost effectively. We
4 need to do that. We need to take the shop owners that have
5 reduced an unusual amount of - the whole idea and concept
6 when we went to the BAR 94 platform was so we could have
7 individual station accountability. That was the whole
8 concept of being able to take and identify the amount of
9 reduction done at a station so that we could take and
10 promote that station in a proactive manner instead of a
11 reactive enforcement manner that's come to surface. We need
12 to make people proud of what they're doing and we need to
13 make the consumers of this state aware that they're apart of
14 it and they need to get acknowledgement for a job well done.
15 And it could for counties, it could go for cities. I mean,
16 it could really break down to become a movement again much
17 like recycling our garbage. It's good for the environment,
18 it's good for health. We can do adds and promote
19 individuals and promote good habits and do things that are
20 solid and getting people to understand it. We're in a
21 populated state with a lot of problems because of it so we
22 have to address. And thank you. Thank you for your fine
23 job, too.

24 CHAIR WEISSER: Well, thank you for your passion, Dennis. We'll
25 go Jude and then back to Roger and then I'd like to open it

1 up for public comment and then I have a closing thought I'd
2 like to share. So, Jude?

3 MEMBER LAMARE: Thank you. Thank you for your excellent
4 presentation and for using words like measuring performance,
5 accountability, incentives. You can see that you've
6 generated a lot of excitement on the part of the IMRC
7 members. We'd certainly - I think I certainly and I think
8 the other members are indicating by their enthusiasm, they
9 also would like to be engaged in how you do this and getting
10 it done. I think failure rate just doesn't do a thing for
11 us. It really is not - it no longer means what it meant and
12 we don't - I'm very uncomfortable with it being used as a
13 measure of anything. But I do think we need to envision
14 this process including OBD enforcement issues, roadside, RSD
15 readings, undercover reports, and that we need to find the
16 incentives for maintenance that will reduce the number of
17 failed vehicle owners. So I like the idea of opening up the
18 issue of HMO for vehicles. Let's face it, we're talking
19 about 15 percent of the owners that have a problem with
20 their vehicles. Most of the owners do not. And so we need
21 to become more focused on the public that really matters to
22 the Smog Check program and to reducing emissions. I think I
23 would dispute the fact that actual tonnage can be calculated
24 using BAR VID data because we have the fast pass and our
25 Committee has recommended that BAR suspend fast pass so we

1 can actually calculate tonnage at least partly for some
2 sample so we can begin to see what that looks like. But in
3 any case, thank you and let's keep moving on this.

4 CHAIR WEISSER: Roger?

5 MEMBER NICKEY: Roger Nickey. Quickly, my feeling has always
6 been if we didn't have an impending test, we'd have much
7 lower maintenance figures. You've got to have the stick.
8 And the other one was I've been here - did Rocky take off?

9 CHAIR WEISSER: I think.

10 MEMBER NICKEY: It's no problem. It's just that I had this
11 discussion with him somewhere in the past. I don't there's
12 anyway of accurately converting percent to grams per mile
13 because the testing that we do is - the reports issued and
14 percent of carbon monoxide, percent of hydrocarbons, percent
15 of oxides and nitrogen and to my knowledge, there's no way
16 to accurately convert that to grams per mile. Rocky, I
17 think we had a discussion about that about converting
18 percentage of pollutant to grams per mile.

19 MR. CARLISLE: Yes, we can do that.

20 MEMBER NICKEY: Oh, you can do that?

21 MR. CARLISLE: Yes.

22 MEMBER NICKEY: Okay. Then somewhere in the past, I was told it
23 couldn't be accurately done.

24 CHAIR WEISSER: That's the kind of question and there are going
25 to lots of analytical questions that are going to be

1 challenging that need to be explored, but not here. I
2 think we need to find that laundry list of questions,
3 Jude's questions associated with failure rates, failure
4 rates, what is it good for? There are a whole bunch of
5 analytical questions that need to be identified and
6 resolved in the context of kind of the strategic questions
7 that Marty's raised. And I guess what I'd like to do is to
8 charge, to request, that BAR and ARB have a conversation in
9 the next month regarding this notion to see whether you
10 folks would be willing to launch some sort of discussion
11 among the stakeholders on the questions that this raises.
12 The alignment of incentives to ultimate program goals. You
13 know, if you - I would like to hear back from you at our
14 next meeting as to whether or not you think that would be a
15 worthwhile undertaking and if so how the IMRC can play any
16 sort of constructive supportive role in that endeavor and
17 if not, why not. Of course, I'm taken with this idea. I
18 think it can be extremely fertile and it can lead to
19 something that's not a three percent type of program
20 improvement. It can be a 300 percent type of program
21 improvement. Particularly if we stop talking to ourselves
22 and start to folks kind of outside of the box. They might
23 have some pretty interesting ideas on this sort of
24 question. Marty, on behalf of the Committee, I want to
25 thank you and those that worked with you in the development

1 of this for kind of ringing a bell. It rang our bell and
2 we're very much appreciative of it. I'm going to now ask
3 for comments from the public and we'll start with Mr.
4 Peters.

5 MR. PETERS: Yes, hello, Mr. Chairman and Committee. My name is
6 Charlie Peters, Clean Air Performance Professionals, a
7 coalition of motorists. Marty probably is somebody that I
8 have about as much respect for as someone very bright, very
9 articulate, very eloquent, one whale of salesman, I'll tell
10 you. But I think there may be something that should be
11 considered. Maybe he's just a little bit too honest and
12 doesn't see how some people might manipulate his proposal.
13 As an example, in my hand is a picture of a Toyota air
14 cleaner. There's a filter right here which I sent the
15 information to the Committee. My observations, personal
16 observations, is that filter gets dirty at 60,000 miles and
17 every one of those cars failed a Smog Check, every one of
18 those cars failed a Smog Check. That was several engine
19 families of several manufacturers for several years, just a
20 wag, a wild guess, I would guess at the time that was
21 discovered, there were probably three or four million of
22 those cars on the roads of California. In the last three
23 years, there's been two of those filters sold. One was a
24 guy that said, Charlie, oh my God, my Toyota failed, what do
25 I do? I said, well, open the hood, take those four screws

1 out, go to Toyota, get that filter, put it in there. That's
2 on of the two filters sold in the last three years. My
3 experience was that everyone of those cars that got a fresh
4 filter, wasn't dirty, didn't have bees and bugs and dirt,
5 etcetera, in the filter passed a Smog Check every time.
6 Every one of them failed at 60,000 miles and I can't find
7 any evidence anybody ever selling any of them. I had every
8 one of those filters for every one of those manufacturers
9 sitting on the shelf of my shop. It took ten minutes to fix
10 those cars and I see no evidence that anybody's ever set any
11 standards or been concerned with what's broken on the car,
12 whether or not it gets fixed. Now that's just the tip of
13 the iceberg. You want to talk about visual, functional,
14 gee, we'll just keep the hood closed until we get done,
15 issue a certificate, get it down the road. People who do
16 care and people do want a quality program, do want
17 consistency and the opportunities to improve that are
18 immense. What feedback have I gotten back from the
19 Committee on this information? None. The gentleman from
20 Toyota's involved. The gentlemen who represents the car
21 manufacturers of the country as well as the aftermarket of
22 the country is involved. Lots of people are involved and
23 I'm distributing it. I'm going to continue. We need to
24 consider the possibility that the car manufacturers spends
25 hundreds of millions of dollars certifying a car and it

1 ain't just tailpipe that makes it work. Thank you.

2 CHAIR WEISSER: Thank you. We're going to go - Rocky, do you
3 have something that you want to say directly?

4 MR. CARLISLE: Yes, we had an email and Dennis DeCota had sent
5 this email requesting information on this particular filter
6 and it was subsequently sent to the manufacturer and the
7 manufacturer responded so that essentially answered his
8 question. His allegation was there's none available in the
9 United States and as it turns out, Toyota, based on their
10 previous sales, has a two-year supply based on sales of .666
11 sales per year.

12 CHAIR WEISSER: Dennis?

13 MEMBER DECOTA: The Committee did spend time in researching Mr.
14 Peters question and found it to be basically the type of
15 question that has little meaning to the system. Of the cars
16 that have that engine family, the failure rates was less
17 than .004. It was something that we did spend energy and
18 time on and researched and got the answer and we have two,
19 three to five year supply with two filters in stock. It's
20 not a pertinent point for the Smog Check. It's more of a
21 waste in effort of the Committee's time and I'm sorry that I
22 even addressed it.

23 CHAIR WEISSER: Did you have something you wanted to add from
24 BAR's perspective?

25 MR. COPPAGE: Yes, Mr. Chair. Alan Coppage, Bureau of

1 Automotive Repair. In response to the presentation Mr.
2 Keller made, I wanted to just remind respectfully the
3 Committee -

4 CHAIR WEISSER: I'm sorry. Is this on Mr. Peters' point?

5 MR. COPPAGE: No, I'm sorry, this is not on Mr. Peter.

6 CHAIR WEISSER: Oh, okay. Hang on for a second.

7 MR. COPPAGE: Oh, okay.

8 CHAIR WEISSER: Is there anything else anybody wants to raise on
9 Mr. Peters' point? No. Thank you. Please continue, I'm
10 sorry, Alan.

11 MR. COPPAGE: On Mr. Keller's presentation that was made a
12 little while ago, three or four months ago, a presentation
13 was made to this Committee on the Bureau of Automotive
14 Repair's Clean Car Repair Effectiveness Program. It's been
15 very popular, I see some noddings of head, some Smog Check
16 Advisory articles have been written on it and it's been
17 well-touted statewide. Some of the points, I just wanted to
18 remind the Committee, that the Bureau is already looking at
19 and actively implementing on a station-by-station and a car-
20 by-car basis. I'll draw your attention to Page 2 of the
21 PowerPoint presentation, the second slide. Human element is
22 key as well as on Page 9, the slide that speaks to the
23 program focused on actual pollution reduction. What the
24 Clean Car Program in a nutshell seeks to do is to actually
25 visit stations who are performing in the beginning of the

1 program, performing the least effective repairs and address
2 these very specific issues with the technicians and the
3 station owners or managers, the ones that influence the
4 business practices. And we're addressing these exact
5 issues. The human elements of them are a little bit like
6 electricity, it seeks the easiest path to ground, correct?
7 That's just the law of electricity. When we look at this,
8 consumers have to be motivated to do more than the minimum,
9 correct? That's what this states. The technicians need to
10 be motivated to professionally perform accurate emissions
11 tests, which is the beginning, and then the person who does
12 the repairs must be motivated to do them effectively. Those
13 are the goals of the Clean Car and Repair Effectiveness
14 Program and we are spending resources, field resources, to
15 visit technicians who have exhibited using a Gold Shield
16 rating criteria, which is a very establish and regulation -
17 it's an accepted grading system for repair effectiveness of
18 vehicles. We're using that same principle to educate
19 technicians who have yet to attain Gold Shield status that
20 that is the incentive for them to get better, to fix cars
21 correctly. Not only Gold Shield, but it's a monetary
22 result. If you don't offer a consumer the full list of
23 options that are in their best interest, they cannot make an
24 educated decision and we are doing our very best to open the
25 eyes of technicians and stations to do just that through the

1 Clean Car.

2 CHAIR WEISSER: Thank you. Bud?

3 MR. RICE: Hello. Bud Rice, Quality Tune-Up Shops. A quick
4 comment. I would also like to compliment Mr. Keller on his
5 presentation. I thought it was informative and
6 enlightening. I will tell you, though, that this
7 collaborative approach that he's discussing, I'd welcome it
8 with open arms to be honest with you. There is however a
9 bias I think toward some of the regulatory agencies,
10 specifically DCA who has a bias towards enforcement. And
11 when you sit down to talk to somebody when they come to the
12 table and the first thing out of their mouth is, hi, I'm so-
13 and-so and I'm here to enforce, it's a little tough to have
14 an open an collaborative environment when that seems to be
15 the bias towards us. So if they could come to the table,
16 ARB could come to the table, whoever needs to come to the
17 table to have this kind of a dialogue with an open,
18 collaborative frame of mind, perfect, perfect. Thank you.

19 CHAIR WEISSER: Thank you, Bud, I appreciate - I always
20 appreciate the succinctness of your remarks, even when I
21 don't agree with them. But at least you get to the point
22 right straight away. Thank you. Steve?

23 MR. GOULD: Steve Gould, IMRC Committee staff. I wanted to
24 point out one thing about what Marty was proposing and what
25 we've really never done since the 1980s and that is he's

1 proposing some statistical measurements, but also proposing
2 to make them public. I'm not sure that making them public
3 is always a good idea because as Chairman Weisser points
4 out, some people will want to go to the station with the
5 lowest failure rate. But it is possible to make statistical
6 measurements and what is striking to me is not since the
7 late 1980s have we ever provided the 7,400 station owners
8 who are supposed to be managing their programs on behalf of
9 Clean Air, we have never provided them with the statistical
10 information that only the BAR can provide about how their
11 individual technicians are doing on various measures and
12 providing them with sophisticated measurements. For
13 example, the question of repair durability came up. Well,
14 you can take the cars that failed your station two years ago
15 and you can now look at them and see whether they're failing
16 again this year and you can report to the station owner.
17 Gee, you rank 4,000th in the state in terms of repair
18 durability. That's private information, but it's something
19 that the owner can use to manage. I'll tell you one brief
20 story and I think maybe Mr. DeCota may know about this. It
21 has to do with a station called Hughes Millbrae 76, and he's
22 smiling and I think he knows the story. Mr. Hughes, and
23 this goes back to the late 1990s, Mr. Hughes was a very old
24 man with a very bad heart condition, but he was known as one
25 of the stalwarts of the community of Millbrae, California.

1 But his heart condition was such that he was told by his
2 doctor, you can go into the station once a day for a half
3 hour, collect the money, talk to people, get out, relax, and
4 take it easy. Well, unfortunately this guy had a bad
5 technician and the station, I believe, had its license
6 revoked. No one told Mr. Hughes that this was a problem.
7 He had no opportunity to observe. I think there are many
8 absentee owners of stations who would love to get reports on
9 how particular technicians are doing. You have two or three
10 technicians working for you. I suppose Mr. Nickey does and
11 I'm not sure how he would tell the failure rates of one
12 versus another, whether someone is failing cars for
13 tampering more so than someone else. This is something we
14 owe the station owners if we expect them to manage. Now, I
15 won't go into the details of what Marty was saying and his
16 suggestion, but there are measures that will help station
17 owners.

18 CHAIR WEISSER: Thank you, Steve. Well, this has been one of
19 the more stimulating discussion areas we've had in quite
20 some time and I'm looking forward to continuing this
21 discussion with ARB and BAR next month to see what thoughts
22 they have about how we might build on what I see as some
23 energy in this level, in this area. And with that, I think
24 what I'd like to do is bring this morning session to a close
25 and indicate that the afternoon, of course, we're going to

1 be devoting to our review of our report.

2 MEMBER LAMARE: We have Randy's presentation.

3 CHAIR WEISSER: Oh my God, Randy, a thousand apologies.

4 MR. WARD: Oh my God.

5 CHAIR WEISSER: Okay, 749 apologies. I'm sorry. I forgot.

6 MR. WARD: Mr. Chair, I will commit to making this relatively
7 short because I recognize -

8 CHAIR WEISSER: Randy, you can take as much time as you want.
9 We're all well-fed.

10 MR. WARD: - that we're all hungry and you've been sitting a
11 long time. Would you like me to go now or -

12 CHAIR WEISSER: Yes, I think I would, but I don't want you to
13 constrain and to limit the time that you need. You take
14 what you need.

15 MR. WARD: Listen, you've all been listening and working very
16 hard from the dais, I think everybody needs to stand up for
17 a second and shake off.

18 CHAIR WEISSER: Jumping jacks.

19 MALE: Do you want to do it after lunch?

20 CHAIR WEISSER: We can do it after lunch, whatever you guys
21 would prefer.

22 MEMBER NICKEY: The presentation only turns out to be half of
23 these things. It's the discussion afterwards that seems to
24 take most of the time.

25 CHAIR WEISSER: So would you prefer having a lunch break and

1 then starting with Randy? Okay. Randy, we'll do that.
2 We'll be refreshed. I wonder if we could truncate lunch a
3 little bit and what do you say, what bids am I asking for
4 for a return time? Do I hear 12:45? Do I hear 12:30, 12:30
5 is tight. 12:45, we'll get back at 12:45. Randy, a
6 thousand apologies for my oversight. So we're adjourned for
7 now, see you at a quarter to one.

8 - o0o -

9 CHAIR WEISSER: If I could call the afternoon session of the
10 meeting back to order. Thank you. Reset your phones, your
11 cell phones to stun and we will now ask Mr. Ward to brief
12 this fully fed and rested Committee. Thank you, Randy, for
13 your patience.

14 MR. WARD: Well, in 45 minutes, you probably didn't have a
15 chance to survey all the delicacies that are in this area,
16 so it was probably the cafeteria, so maybe I'll get your
17 attention since you haven't fine French cuisine or large Hof
18 Brau sandwiches or something like that. I think much of
19 what Marty Keller said - first I want to introduce myself.
20 Randall Ward, Executive Director, California Emissions
21 Testing Industries Association. I, as well, appreciate the
22 opportunity to discuss the issue of performance measures
23 which I think have been the subject of discussion for
24 historically some period of time and then clearly more
25 recently as a result of discussions surrounding AB578. I,

1 as well, I think would, as I indicated, agree with much of
2 what Marty Keller said. I think if you're going to stop the
3 inertia of what is, it's going to require some leadership.
4 And so to the extent that there are some topics and ideas
5 that stimulate some thinking and that thinking results in a
6 meaningful endeavor that is headed by those that can have
7 some policy impact then it's a very positive effort. So I
8 would like to think that both his and my effort is not
9 wasted and that some fruit will be borne from it. In recent
10 history, the issue of performance has largely centered
11 around Gold Shield being able to obtain directed vehicles
12 along with test-only and much of that has to do with failure
13 rates and I think as Dr. Lamare has properly assessed, I
14 think failure rates are one measure, but not the only
15 measure. As I looked at the XY axis on the graph that Mr.
16 Keller had that showed the decline in failure rates of test-
17 only that was significant compared to the relative decline
18 in test-and-repair and Gold Shield, there are a number of
19 answers for that. First of all, if you failed your test two
20 years ago and you're worried about your car failing again,
21 you don't want to be thrown into the position of having your
22 car fail. So you're going to take care of that car before
23 it goes through. So the cars that have been through the
24 cycle and recognize that the cycles began in 98, but you
25 really didn't have the first full cycle until 2000, so by

1 2003 - 2002, 2003, most all cars, particularly those that
2 were directed, had been through the cycle a couple of times.
3 So people are now used to that cycle and I think that's
4 important to point out. During the course of discussions,
5 and I've been involved in discussions and I think you saw
6 the letter in response to Mr. DeCota's letter that followed
7 up discussions that we'd had for somewhere in the vicinity
8 of eight months, those discussions were directed by the
9 legislature and we were asked to look at performance
10 methods. First, I think it's important that - it's been
11 discussed, but let me point out the components of a test.
12 There are really three components to a test. There's the
13 visual test, a functional test, and then the tailpipe test.
14 The visual and functional tests, to some extent, the visual
15 is very subjective, to a lesser degree the functional, and
16 the ASM is obviously the least subjective and most objective
17 of the three components. So when you're looking at a
18 failure rate, for example, you really need to look at how
19 those vehicles failed. Did they fail for visual, did they
20 fail for functional or did they fail for ASM? For example,
21 there's been a lot of discussion and as Roger Nickey raised,
22 there were eight pages in Marty's analysis about test-only.
23 I didn't do that for Gold Shield and I certainly could have,
24 but my motivation was to talk about performance measures.
25 So I think within the context of the visual and functional

1 failures, it's interesting to note that if you look at the
2 fails - failure rate for Gold Shield, it's much higher than
3 the statewide average for visual and functional than it is
4 for ASM compared to regular test-and-repair and test-only.
5 And that's important because when you have a fail rate and
6 you have to recognize as I've said before, that test-only
7 stations test an average of 280 vehicles a months. Test-
8 and-repair, Gold Shield is approximately 40 vehicles a
9 month. So it does not take much increase in the number of
10 vehicles you fail to change your percentage of fail rate,
11 which is the operative issue here. With that, I'm just
12 going to continue and say that there's really no difference.
13 The law and regulation for the test is the same for every
14 station type. There's no differences at all. If you
15 conduct the test properly, you've obeyed the law. If you
16 conduct the test improperly, you violated the law, and if
17 you're caught by the BAR, then you're subject to the
18 punitive penalties that they have available to them. And in
19 some cases, if it's a repeated and egregious violation, then
20 you lose your license to operate. And all this is by way of
21 background, so I'm getting somewhere, Chairman Weisser.
22 Enforcement issues, I think you've heard smatterings of
23 discussions on enforcement and this Committee had at least
24 two meetings that were specifically delegated to enforcement
25 and the legislature felt that there was a concern there and

1 they mandated the Department of Consumer Affairs to contract
2 with an enforcement monitor to take a look at the
3 enforcement program. Having been involved over a number of
4 years with industry and been involved in numerous
5 discussions on the issue of enforcement, I think if I could
6 crystallize it, what I would is that the laws and
7 regulations are inconsistently applied and the industry
8 believes that there is a lot of subjectivity in the
9 application of laws and regulations varied between field
10 office and varied between individual BAR representative. So
11 what I have suggested in the past has been a function that
12 is utilized by the AQMDs and the Air Board that is part of
13 the Health and Safety Code known as a mutual settlement
14 agreement process. Norm Cavell, formerly a member of this
15 Committee and the executive officer of the Sacramento
16 Regional Air Quality Management District was a very vocal
17 proponent of the mutual settlement agreement process and if
18 you talk to him, what you would hear is how much it had
19 saved them in terms of resources, not only dollars, but
20 personnel. It had avoided litigation on both sides of the
21 equation and given additional resources that they could
22 provide to other higher areas of need. So he considered it
23 to be a very serious cost-saving endeavor and it expedited
24 the enforcement process dramatically. This - and I'm sorry
25 you can't read it. I'm not real adept at transferring items

1 to PowerPoint, but this is the inside of the brochure. The
2 only thing I think is of note is on the right page, at the
3 bottom there are three bullets, the top bullet of the three
4 simply shows the individuals with regard to dealing with a
5 violation that they have the opportunity to utilize the
6 mutual settlement agreement process. I think it's important
7 to point out that this mutual settlement agreement process
8 was developed with the stakeholders, so when the industry
9 came together with the AQMD, they all agreed that a strong
10 enforcement policy was in everyone's best interest and at
11 the same time, they wanted to avoid the protracted arguments
12 over each individual type of fine for what it was. So the
13 industry concurred with what was ultimately developed and
14 participated in it's development. The next page is a
15 monetary component formula and I'm not going to spend much
16 time on this. Certainly your Executive Officer, if he's
17 interested, I can provide him this information in detail
18 that you can potentially read a little better than this, but
19 you take a number of objective criteria that you'll find on
20 the next couple of pages and you can see where they have
21 guidelines for scoring and those guidelines have numeric
22 equivalents associated with them that ultimately are used in
23 the computation of a monetary formula. So it takes a lot of
24 the subjectivity and guesswork out of it. It certainly
25 would take a lot of the questions out of the industry's mind

1 about the consistent application of enforcement by the field
2 offices and the program reps. Now my feeling is that the
3 development and implementation of an MSA, mutual settlement
4 agreement, could very easily result as a basis for
5 implementing measures of performance and therefore I'm going
6 a little bit further and I'm recommending in this case, and
7 again, this is a kernel, much as I think you characterized
8 Mr. Keller's comments, to stimulate thought processes and I
9 would say that I certainly don't hold all these things to be
10 in stone, but in conjunction with the major State agency
11 stakeholders and the industry develop this process, it would
12 likely require statutory authorization, so there again you
13 need the need for leadership. And develop for station
14 owners as well as technicians and I think you've heard
15 enough from the industry to recognize the feeling on the
16 part of the industry is that the technician is a major
17 component in the success of this program, but yet does not
18 bear the significant responsibility that he likely or she
19 likely should within the context of the enforcement program.
20 So I've detailed some of the elements here. Should be
21 developed individually for station owners and technicians,
22 the MSA, as agreed to, should include a schedule of monetary
23 penalties for both technicians and licensees, and if the
24 licensee and the technician are one and the same, then it
25 should apply to both. Two, the BAR in conjunction with the

1 IMRC and Air Board and the industry should develop a
2 performance grading system, which I'll refer to as the PGS,
3 for all licensed smog inspection stations. Factor to be
4 included in the PGS should be not limited to the number of
5 violations received by a licensee, which I think is one of
6 the points that Marty made, the repair durability of CAP
7 repairs could potentially be another element, the results of
8 any completed audits or investigations during the preceding
9 12 months, and it could be included as an element within the
10 mutual settlement agreement process. In other words, at
11 year end, if you had repeated violations and ultimately this
12 was reviewed, maybe there was a provision that your annual
13 license renewal fee would be raised for a period of 12 or 24
14 months, some type of a motivation, monetary motivation, to
15 let you know that this was particularly important. I also
16 say that if not one and the same, and I think the BAR
17 recognized that the ultimate responsibility goes to the
18 licensee independent of the technician. You have to have
19 someone who is ultimately responsible for the management of
20 the facility. Upon the conclusion of the annual review, the
21 BAR should recommend a performance grade for each licensed
22 smog inspection station, each station should be notified in
23 advance of that grade and each station should be given the
24 opportunity to appeal the grade. And in this case, I
25 thought that there wouldn't be a better form for that appeal

1 that exists today than the IMRC. I don't see this as
2 something that is stacks of paper. I think that the number
3 of stations that receive multiple violations that still have
4 a license or want a license are going to be relatively few.
5 In most cases, a violation during the course of a 12-month
6 period is enough to get the attention of a station owner and
7 a technician, but there are clearly going to be some, and
8 the BAR could speak to that much better than I. And I would
9 also say as an adjunct is I don't think I haven't and I
10 don't think this Committee has really seen a schedule of the
11 types of violations and penalties that are issued by the BAR
12 during the course of 12 months. I think that would be
13 particularly informative so you could get an idea. Also
14 their inspection schedules. They attempt to do it
15 quarterly. In some cases they don't have the resources to
16 do that, they've been constrained. What is an inspection
17 schedule? Are stations being hit at least once a year? Are
18 some being hit twice a year? I guess an important point
19 here is until you have a belief by the industry that there
20 is a fair and consistent application of enforcement, it's
21 going to be very difficult to have the industry buy into a
22 performance measure that's related in any way toward
23 violations or enforcement processes. I think the
24 performance utilizing this mutual settlement agreement
25 process will be useful to the BAR in directing enforcement

1 efforts and provide the consumer with onsite information on
2 individual station performance, which is another issue that
3 was discussed in Marty's presentation. Further, it will
4 provide the stations that do well to enhance their marketing
5 efforts. I think that's something once again, we're talking
6 about the public having the opportunity to make a decision
7 based on informed knowledge of the performance of the
8 stations, so that would be again, something that the station
9 could use and they could do the marketing. The next topic I
10 want to discuss is the customer satisfaction index rating.
11 Most of what we hear with regard to performance has to do
12 with durability of repair, the test, how a technician
13 performs, how well a shop performs, the difficulty with
14 dealing with human behavior, i.e., I want to get in and out
15 with the cheapest possible expenditure out of my wallet, so
16 you alleviate the station and the technician from large part
17 of the responsibility toward ensuring a durable repair or a
18 repair that might have produced more savings than otherwise
19 was gained. The IMRC spent considerable time, and Dr.
20 Lamare spent considerable time and resources in the
21 preparation of the July 2005 consumer information survey.
22 And we believe, as does the IMRC, that this element is
23 critical to the program's acceptance. We also believe
24 another parallel element of information exists that further
25 explains the results of this survey and is yet to be

1 utilized. That element is the dramatically large number of
2 volunteer vehicles that go to test-only stations to obtain
3 their test. Now you've heard that in the pejorative
4 however, we're talking about volunteers here, we're not
5 talking about directed. So I've separated these numbers so
6 you have an apples to apples comparison. Of the volunteers
7 and the universe of volunteers was 6,351,136. Those were
8 open to everybody to compete for. That was the business.
9 Forty-four percent of those went to test-only stations. The
10 interesting part of that is that test-only stations comprise
11 21.75 percent of the universe, so that raised the question
12 to me as what is convenience? Is convenience simply the
13 closest one? Well, it obviously isn't the closest one
14 because there's far fewer. In fact three and a half times
15 more test-and-repair stations than there are test-only
16 stations. If the consumer information survey is correct,
17 then consumers find test-only to be very convenient. We
18 also know that convenience is not necessarily or consumer
19 acceptance of test-only is not a function of price because
20 the price for each Smog Check at each station type are
21 nearly the same. So people aren't shopping or by and large
22 they aren't shopping. So I guess, while it's evident the
23 consumers find test-only to be the most convenient, I'm not
24 sure we have decided exactly what convenience is at this
25 point. If it isn't price and it isn't location, then what

1 aspect of convenience really is important? We think to a
2 large degree the test-only success is attributable to
3 effective marketing of the emissions inspection. Now that's
4 not necessarily marketing that attributable to each
5 individual test-only station or even a group of test-only
6 stations. I think a lot of it has to do with experience,
7 return business. You've seen the number of volunteer
8 vehicles creep up substantially to test-only over the same
9 number of ensuing years that were grafted by Mr. Keller in
10 his presentation. Now the test-and-repair stations within
11 the context of their advertisements typically advertise the
12 emissions test as part of the other services and goods that
13 they provide. Whether that's a good idea or a bad idea, I
14 don't know, but there has to be some answer as to why 21.75
15 percent of the stations are getting 44 percent of the
16 business that could go anywhere. While we agree with the
17 consumer information survey that it be conducted as part of
18 future evaluations, we think that expanding the scope of
19 this survey would be extremely helpful and I think I've
20 raised some questions that hopefully would insight that.

21 CHAIR WEISSER: I agree.

22 MR. WARD: Finally, I'd like to recommend that the IMRC work
23 with the industry and the consumer interests to develop a
24 consumer satisfaction index rating. Now again, this doesn't
25 necessarily have to be a rating that pits one station type

1 versus another. It could be within the same category of
2 station and we believe that a licensed emission inspection
3 station could have, if you gave them the opportunity to
4 elect to participate in this, that would be a good
5 opportunity for them to enhance their marketing efforts
6 because then they would have something to post on their wall
7 to say listen, we received this level of rating, a consumer
8 satisfaction rating from somebody that was independent,
9 i.e., the State of California. We believe the consumer
10 friendliness of this program is critical and I'll tell you
11 why. It's particularly critical if you think of program
12 enhancements. If you're going to ratchet the cut-points,
13 make those changes, you're going to do annual testing of
14 certain vehicles, many of the things that have been
15 discussed, evaporative emission testing which is on the
16 immediate horizon, those things are all going to affect the
17 consumer and if the issue of consumer satisfaction is going
18 to be an issue that we direct ourselves to, then I think
19 it's going to have a direct implication as to how those
20 consumers accept program enhancements that we think would
21 gain additional emissions, and you think would gain
22 additional emission. And I think it's a motivational
23 factor. We were talking about how do you motivate a station
24 to perform. And if this is, say part of the Breathe Easier
25 Campaign, where at the same time the Bureau is marketing

1 Breathe Easier and trying to get the consumer to commit to
2 taking effective action relative to their car and its
3 emissions, at the same time, you're taking the same step
4 with regard to those that are testing and repairing those
5 vehicles. And I think it makes a lot of sense to motivate
6 them. And again, I think if you could enhance the marketing
7 opportunities for a station owner, that gives them a chance
8 at getting a bigger chunk of that apple. I'd like to say
9 also, I need to point out that the number of vehicles that
10 were directed to test-only in Marty's presentation, he used
11 I think 2005 and he used 3.44 million. And it actually is
12 the number I provided, the 2.8 because as I said before, 36
13 percent are being directed to test-only, 24 percent for
14 calendar year 2005 showed up. So the number is dramatically
15 different and these are BAR numbers, so again I took them
16 off the same executive archives reports that Mr. Keller.
17 Thank you very much. If you have any questions -

18 CHAIR WEISSER: Well, thank you, Randy. I'm going to try to do
19 the impossible and that is to ask Members of the Committee
20 and members of the public, when responding, questioning or
21 making comments to what we've heard from Randy, that we try
22 not to focus on test versus test-only, but focus on the
23 specific subject at hand, the notion of performance
24 standards, the notion of alignment of incentives toward
25 program goals. I think that's where the gold is today. At

1 least that's what I'd urge. Of course, any Member of the
2 Committee and the public can talk about anything they can
3 that's legal. But I would urge is to focus on what I've
4 outlined, performance standards, performance measures, and
5 the use of performance measures and other things to align
6 behavior with program goals. So I'm going to start from the
7 far left and work my way to the right with Jeffrey first.

8 MEMBER WILLIAMS: Jeffrey Williams. It's a very early statement
9 in your presentation where you talk about the vehicle
10 emissions test components and sensibly talk about -

11 MR. WARD: Excuse me, Dr. Williams. The vehicle emissions -

12 MEMBER WILLIAMS: Test components.

13 MR. WARD: Yes.

14 MEMBER WILLIAMS: That slide concludes with the statement
15 therefore if a complete test is conducted, no element exists
16 to compare the performance of one test versus another. I
17 think you mean that to be an important statement and I'm a
18 bit puzzled by it.

19 MR. WARD: No, it's relatively simple. It means that if, Dr.
20 Williams, you and I each conduct a test and we obey the law
21 and we conduct that test according to regulation and law,
22 there is nothing that would differentiate our performance in
23 conducting that test.

24 MEMBER WILLIAMS: Okay. But should we end up having very
25 different number of failures, whatever, I want to almost

1 leave this is an abstract level, doesn't that then provide
2 evidence that since the test is the same, either the fleet
3 we were testing is different, or in fact we weren't testing
4 correctly.

5 MR. WARD: Oh, absolutely. I'm not saying that human behavior
6 isn't motivated monetarily and otherwise to do things that
7 deviate from the law and thus that's the reason we have BAR
8 enforcement. All I'm saying is all things being equal, if
9 you are trying to think about a performance measure as it
10 relates to the test, a test is a test. And if we are both
11 honest technicians and we perform that test, there's really
12 nothing different that you can use to evaluate performance
13 there. Over time, if you're looking at fail rates of one
14 technician versus another and clearly there are other issues
15 that are associated with that, geographic region of the
16 state, geographic region of a particular city, etcetera,
17 that affect that, but clearly there are other indicators
18 that BAR enforcement I assume uses to pass judgment on where
19 they're going to initiate enforcement efforts. All I was
20 trying to say with that state is that all things being
21 equal, there's nothing different about a test at once
22 station to another and one individual technician to another
23 if they're performing the test correctly.

24 CHAIR WEISSER: Roger?

25 MEMBER NICKEY: Clearly if we're going to evaluate performance,

1 then somebody is going to have to do the evaluation and I
2 assume that part of this would have to be an onsite
3 evaluation of some kind. You can't do this all by remote
4 control or from an officer looking at statistics. So my
5 question would be how often are we going to visit each
6 inspection station? If you're talking about enforcement,
7 I've never been able to get any straight answer on how often
8 they visit stations, whether it's once a year, twice a year
9 or what. If it's once a year, how are you going to draw any
10 conclusions from that? If it comes from a quarterly audit,
11 that's four times a year. That means that only once every
12 three months somebody walks into my unit for a couple hours,
13 hopefully less, and makes a hip shot judgment of what's
14 going on and how it's being performed. I would just wonder
15 how we're going to get a clear picture of performance with
16 limited visits?

17 MR. WARD: Roger, as I indicated, I certainly don't know all the
18 details of how enforcement efforts are applied
19 programmatically, how those resources are deployed. I do
20 know that they do, at least attempt to do, an annual audit
21 of all Smog Check facilities. I think it would be
22 worthwhile within the context of this discussion to get that
23 kind of an assessment or a briefing so that we had some idea
24 how they deployed their resources. But my way of thinking
25 on this is that if you have this collaborative effort

1 between the stakeholders and the regulating agencies put
2 together the mutual settlement agreement process, it will be
3 an education process for all. The industry will be far more
4 acceptive of ultimately some type of performance rating that
5 is then based on enforcement activities that have occurred
6 during the course of a calendar year or 12-month period that
7 impacted vehicle emission inspection stations.

8 CHAIR WEISSER: I'll just interject that the notion of a mutual
9 settlement process is, in my eyes, sort of a standalone
10 issue. It seems to me that would be desirable under
11 virtually any sort of circumstances that I can envision.
12 I'm not sure - the tie, I understand what you're suggesting,
13 Randy, that would help in warming up the industry and I
14 won't disagree with that, but I think there are benefits
15 beyond warming up the industry which I don't think is the
16 regulator's first job where that sort of process could have
17 benefits to the regulatory side of the program.

18 MR. WARD: And I suspect Mr. Heaton has much that he could add
19 to the mutual settlement agreement process and how -

20 CHAIR WEISSER: We'll ask him right now. He's been very quiet
21 and maybe he has some thoughts he'd like to share as an APCO
22 on the use of settlement agreements in his business.

23 MEMBER HEASTON: Well, the mutual settlement process was
24 primarily used by the air districts as a means to bring
25 about a quick conclusion of a notice of violation. And one

1 of the ways that it does that is that we have two ways to
2 go. You have a civil penalty involved or you can go
3 criminal on most things. And so naturally the burden of
4 proof in a civil situation is much different than that of
5 the criminal. So it behooves you to want to do a settlement
6 to where you mutually can agree to what the penalty should
7 be and so it expedites the process. So for us, it's a way
8 of keeping out of court, which only prolongs it and runs the
9 thing out and doesn't do anything to punish anybody except
10 cost a lot of money and time. And so that's -

11 MR. WARD: On both sides of it.

12 MEMBER HEASTON: On both sides. And so that's primarily where
13 the mutual process - but you'd mentioned a schedule, though
14 that is an interesting component because to me most of these
15 can be categorized and we have that for not all districts,
16 but many of them have standard set penalties that were
17 agreed upon and through rule-making or through some sort of
18 penalty rule-type process where they say, okay, this one is
19 \$250, this is \$500, or whatever and you already know that if
20 you get dinged on that you could do it. Is there a problem
21 now with settling these enforcement actions? I've seen in
22 the booklet or one of the magazines, you can see where
23 they've shut down and it lists the different disciplinary
24 actions that BAR has taken against the stations. I've seen
25 that summary.

1 CHAIR WEISSER: In the BAR Reporter.

2 MEMBER HEASTON: In the BAR Report, but I don't recall whether
3 it had penalty amounts or anything like that. But that to
4 me would the first step is come to some agreement, get a
5 schedule of penalties for the ones that occur most often.
6 If you could get it down to that, you almost don't need the
7 mutual settlement process. That's for the more nebulous
8 kind of things. Because what you have in the mutual
9 settlement process is all the mitigating factors that you
10 can apply to a penalty because once you - what we do is if
11 we're at \$10,000 a day, it doesn't take long to run a
12 penalty that could reach into the hundreds of thousands of
13 dollars. And so the mitigating factors help bring that
14 amount down to something that's a little less.

15 CHAIR WEISSER: Thank you. Anymore comments from this side?

16 Seeing none - well, put your thing up.

17 MEMBER DECOTA: Oh.

18 CHAIR WEISSER: Your time's passed, Dennis.

19 MEMBER DECOTA: Go ahead and pass me up.

20 CHAIR WEISSER: No, go on.

21 MEMBER DECOTA: I find a lot of things that Mr. Ward says is
22 very applicable to progressive change. I do -

23 CHAIR WEISSER: Thank you, very much, Dennis.

24 MEMBER DECOTA: All right, thank you. That's the end of the
25 niceness. No, the issue with regards to the durability of

1 repairs on CAP repairs, you do realize that those repairs
2 are authorized by the State of California Bureau of
3 Automotive Repair. How would the individual station improve
4 that number?

5 MR. WARD: Listen, as I indicated in this report, within the
6 context of those items, I don't have a corner on this
7 market. I'm just giving you examples of what potentially
8 could be used for further -

9 MEMBER DECOTA: I just didn't understand how that played in.

10 MR. WARD: Well, I think as with anything else, you've talked
11 about roadside testing coming up with determinations,
12 subsequent tests at Smog Check facilities coming up with
13 additional information, you've talked about - Marty talked
14 about looking at the VID to see what kind of emissions
15 savings and grams per mile resulted, so I think there are a
16 number of potential opportunities to look at that and I'm
17 certainly, as I said, not wedded to any process associated
18 with how that's look at and frankly I think it would be much
19 better for a representative of Gold Shield CAP who is much
20 more involved in this to determine what he thinks are
21 appropriate measures of performance with regard to Gold
22 Shield and participate in the collaborative framework that I
23 outlined.

24 MEMBER DECOTA: Okay. Got it. The issues with regards to test-
25 only and test-and-repair are issues that have evolved over

1 basically since 98. The amount of vehicles being directed
2 has been an issue that has been a market-driven issue,
3 basically by regulations to the regulatory agencies and
4 powers that may be on how cars are being directed. And I
5 find out that in this Committee's letter to Assembly Member
6 Horton on AB578 that some of the information that came out
7 of that letter and those questions, which were very well
8 done, Committee, all of the Committee, we find out that the
9 HEP is only accurate 21 percent of the time. And that's
10 created a large amount of vehicles over the last five years
11 to be directed to test-only on a ratio that seems to be
12 quite inadequate for the amount of vehicles that have been
13 received by a specialty-type testing entity, such as test-
14 only versus test-and-repair. And I wanted to understand
15 your understanding of - do you know this information? Have
16 you seen these numbers? And if so, do you have a response
17 to that?

18 MR. WARD: To the HEP?

19 MEMBER DECOTA: To the inaccuracy of the HEP. The HEP is wrong
20 80 percent of the time.

21 MR. WARD: I haven't heard that it's - wrong is a very strong
22 statement, Mr. DeCota, and frankly -

23 MEMBER DECOTA: But it's not my -

24 MR. WARD: Dennis, Dennis, I'm not here to debate that issue. I
25 frankly thing that this Committee has heard enough on that

1 debate already. If you want to continue to pursue it, I'm
2 happy to do that.

3 CHAIR WEISSER: Not here and not now. And I appreciate your
4 forbearance in that regard. Please continue. You were
5 saying that the word wrong is very strong.

6 MR. WARD: I think it's a strong word. I have not had a chance
7 to digest the information on the HEP that Mr. DeCota's
8 talking about, but it was ultimately very clear from the
9 original analysis that was done that if you developed the
10 right population mix of vehicles that there was a population
11 mix that, if developed, had the largest chance for failing
12 their emissions test. Okay, and that was the HEP. Now I
13 don't think that either the Bureau or the Air Board would
14 say that it was a an exact science. The point made though
15 is that the consumer is the one you're particularly
16 concerned about here and frankly, what has ultimately
17 occurred, because I was trying to compare apples to apples,
18 is that the test-only component of this program has really
19 been accepted by the consumer substantially. It's been
20 shown to be very painless, not only by your work, but by the
21 statistics that you look at with regard to the BAR. And
22 then I guess the only point I would make is that there's
23 been a lot of discussion with regard to test-only and
24 looking at test-only specific, i.e., HEP, i.e., directed
25 vehicles, i.e., failure rates. There are a substantial

1 number of questions that I can raise about Gold Shield. And
2 I won't do them today, but I think it's certainly an issue
3 that this Committee may want to look at in the future.

4 CHAIR WEISSER: Well, I appreciate your not wanting it to do
5 today. I will repeat my admonition that I really do not
6 want this discussion to focus on, if we can, test-only
7 versus test-and-repair, the experience of the volunteers
8 coming to test-only as maybe removing some of the economic
9 necessity of having directed vehicles only go to test-only.
10 Those are questions I think we can pursue at some other
11 juncture. What I do want to pursue are your thoughts and
12 the thoughts of this Committee associated with performance
13 standards, incentives to align the program participants to
14 the program goals. So if we could try to focus on that, I
15 think we have a better chance of having today be productive.
16 Is there anything further you'd like to ask, Dennis, or
17 comment on?

18 MEMBER DECOTA: I think you said it for me.

19 CHAIR WEISSER: Thank you. Mr. Pearman, I think you're next in
20 line.

21 MEMBER PEARMAN: This performance measure system seems to give a
22 new role to IMRC and I guess I had two questions. One was
23 if you -

24 MR. WARD: I took great liberty with that, Mr. Pearman.

25 MEMBER PEARMAN: One was did you give any thought to what that

1 meant in terms of staffing or budget and that type of thing,
2 number one, and secondly, I guess the more important
3 question is why, given that we've already got a dual
4 bureaucracy that we're going to have another one, not us, of
5 course, which is a good bureaucracy, with this role?

6 MR. WARD: Mr. Pearman, during the course of discussions
7 surrounding the Business and Professions Committee review of
8 enforcement, the enforcement monitor, other discussions that
9 I've been a party to with industry, there is a distinct
10 feeling and I know that if Mr. Keller was here, he would
11 parrot me on that, that there needs to be an independent
12 avenue of appeal, that the avenue that currently exists
13 simply further exacerbates the problem and Mr. Walker's
14 here. If he wants to elaborate, he can feel free and you
15 could ask him because he's particularly familiar with the
16 issue as well, but I think that whether it is this Committee
17 or it's an independent panel of some sort would remain to be
18 seen, but I don't think we're talking about a monumental
19 effort here that would involve considerable staff time.
20 Would it involve additional staff time, certainly. Would it
21 involve additional Committee Member time on this Committee,
22 certainly. Maybe it's time that this Committee had a little
23 bit stronger role and stronger voice in this program because
24 I think those of us that participate regularly with this
25 Committee see that there is a questionable seriousness

1 sometimes by those agencies that have the most to do with
2 the effort that you're trying to accomplish. So at least
3 from my perspective, maybe it's time this Committee had some
4 more teeth.

5 MEMBER KRACOV: On the enforcement side, I just have a question
6 with regard to the mutual settlement agreements. And I
7 understand that on the charts that you gave us that there is
8 some mitigating factors or exacerbating factors that could
9 be considered, but I just wanted to get your thought. I
10 guess there's two ends to the spectrum. On one side, you
11 can regiment every kind of violation and how much that will
12 cost and really set it forth with very little discretion.
13 On the other end of the spectrum, there's a lot of
14 discretion and it's kind of fuzzy as to what the violations
15 are for each thing and it seems that what you're asking for
16 is to really get some more clarity which puts you on one
17 side of that. I'm just wondering, though, is there a little
18 bit of a threat that watch what you ask for because you may
19 get it? If you do lose a lot of that discretion, do you
20 think that there could be some negative repercussions from
21 that? Maybe as applied with BAR that's not a concern, but I
22 know in other contexts it can be, so I'm just wondering what
23 you think about that?

24 MR. WARD: And I'm aware of that, Mr. Kracov. I think the best
25 I can say and answer a response to your question is that I

1 view this as a collaborative effort that it would be the
2 Bureau with the industry and with the IMRC that we're trying
3 to divine what that schedule should look like and how much
4 latitude should be involved. But the schedule would have
5 certain things that remove subjectivity and that is the
6 intent. So you may get what you ask for and maybe that's
7 good. If someone has committed a violation one time, then
8 they shouldn't be assessed the same penalty as someone who
9 has done the same thing three times who happens to have a
10 better relationship with the field office or a program rep.
11 If someone is testing, in my case, 1,000 cars a month,
12 versus someone who's testing 40 cars a month, someone who
13 has six technicians working for them versus an
14 owner/operator, should there be some element that looks at
15 the difference between that, someone who is managing versus
16 someone who's actually running the business hook, line, and
17 sinker. Sure. And I think all those are part of a
18 collaborative process that would be discussed and I
19 certainly don't purport to have all those answers. All I'm
20 saying is that until the enforcement playing field is
21 perceived as level by the industry, I think you're going to
22 have a real hard time developing performance based on number
23 of violations, etcetera, associated with the program.

24 CHAIR WEISSER: Thank you. My experience, both in terms of when
25 I was at the Public Utilities Commission managing a trucking

1 enforcement program and my current job interacting with air
2 districts on enforcement actions on stationary sources is
3 that it ain't easy, but you can develop a structured
4 approach toward the assessment to fines and penalties. They
5 can act as a guideline and try to normalize behavior between
6 a widespread enforcement program. It's not easy, but I can
7 say from the personal experience I had at the PUC that the
8 effort we put in to developing that ended up paying us
9 dividends in terms of just the acid indigestion that is
10 caused by folks who feel that they're being unfairly
11 treated. And I tend to agree with Randy that it is a basis
12 for mutual understanding and trust that could lead to other
13 sorts of things.

14 MR. WARD: Chairman Weisser, one interjection, though is that
15 the vast majority of these business, both test-only and
16 test-and-repair, these are truly small businesses.

17 CHAIR WEISSER: Yes.

18 MR. WARD: And so for them to have to pay for representation, in
19 many cases they don't do it because they can't afford it.
20 So there's a huge element there and we're talking about
21 being sensitive to small business in all aspects of the
22 government environment. And being a small businessman
23 myself, I can tell you there are few places that I believe
24 it actually exists.

25 CHAIR WEISSER: Bruce?

1 MEMBER HOTCHKISS: Yes, I want to talk. The program reps keep
2 coming up. I represent the program reps and they're made to
3 sound like they're in the wild west and they're the marshal
4 of their territory and they do whatever they want. And I
5 can tell you they don't. If there is disparity between
6 program reps, it's a management problem. It's not a program
7 rep problem and this idea that somehow they overlook illegal
8 activities at one shop because they're friends, you know,
9 the cases that are submitted for anything, whether it's a
10 citation or all the way up to a criminal case, it goes
11 through so many levels of review really. An individual
12 program rep as very, very little say in what the ultimately
13 penalty is or where it goes, so I really wish we'd take the
14 program reps out of it. There may be management issues at
15 BAR, but the guys on the ground do a very good job at trying
16 to evenly administer some laws and regulations that are not
17 always clear. The legislators don't always write a law that
18 everyone understands one way. And there are field offices
19 that, yes, may interpret things a little bit differently,
20 but again, that's a management problem. It's not a BAR rep
21 problem on the ground.

22 MR. WARD: My comments weren't intended to impugn every program
23 rep out there, Mr. Hotchkiss. It was to simply say - and I
24 also said that the perception of industry, if I was to
25 crystallize that in a very small number of words, and that

1 was really just to build my foundation for the mutual
2 settlement agreement process that would make the playing
3 field, at least in terms of enforcement, viewed as a much
4 fairer process by the industry. Because regardless - and I
5 believe you're closer to the action than I am, Mr.
6 Hotchkiss, but regardless of how close to the action you
7 are, perception has a lot to do with what is going here and
8 the industry - and there's a lot of anecdotal information
9 and some of it is a little better than antidotal, but the
10 industry perceives that enforcement to be inconsistently
11 applied and to some degree subjective. And I don't think
12 you'd have industry organizations coming in here telling you
13 otherwise. In other words, I think I can say that with some
14 degree of comfort because I've heard it from all of them.

15 MEMBER HOTCHKISS: Okay, and I'm simply saying that if that's
16 happening, it isn't the program rep on the ground who's
17 making those decisions and I don't believe it happens as
18 much as the industry - and I agree, perception is a problem.
19 If it happens once, the industry may perceive that it's
20 happening a lot. I don't believe it happens as often as it
21 does, but I'm sure it does now and then. But it isn't the
22 guy on the ground that's making those decision.

23 MR. WARD: And I'm not saying this is flagrant, Mr. Hotchkiss.

24 CHAIR WEISSER: Okay. Thank you. Thank you. Do have one
25 further comment, Gideon?

1 MEMBER KRACOV: Just a quick little follow that maybe Rocky -
2 have we heard back from the enforcement monitor yet? I
3 missed a meeting here.

4 MR. CARLISLE: No, not yet.

5 CHAIR WEISSER: I thought a had report, it's got to be four
6 months ago or so?

7 MR. CARLISLE: Oh, it was quite awhile ago when we had the first
8 report. I think the next one is due toward the end of this
9 year.

10 CHAIR WEISSER: Okay. We have an interesting situation here.
11 We've got the issues that you've raised, Randy, with
12 enforcement and trying to set up some guidelines for
13 enforcement, which I think are something worth pursuing
14 frankly on it's own. We have issues raised this morning in
15 terms of performance standards. You hit on some of those
16 that Marty hit on. There seems to be some opportunity there
17 for some large thinking that could have large program
18 impacts. And you have this whole set of issues that I've
19 been hesitant for us to engage today and it's the
20 fundamental issue of direction of vehicles to test-only
21 versus test-and-repair. And the issue that was brought up
22 regarding the effectiveness and accuracy of the high-emitter
23 profile as a true predictor of vehicle behavior. My concern
24 in regard to that issue is that it is so emotion-laden and
25 so important in term of the perspectives of the industry

1 stakeholders that it has a tendency to drown out the
2 consideration of everything else, which is why I've tried to
3 put a little package around that. But it is an issue in my
4 mind, at least, I don't know the sense of the full
5 Committee, it is an issue whose time as come to look at and
6 to look at seriously. I'm unsure as to the best way to
7 approach looking at that issue in a way that would still
8 allow this Committee to do other important business
9 beforehand, but I also wonder whether or not a discussion of
10 that issue or pursuit of that issue might be best
11 established through the notion of a publicly noticed
12 workshop that the IMRC could hold to discuss and obtain
13 information available associated with the HEP and other
14 factors that go into the directed vehicle mandate, both in
15 terms of the origin of a mandate, the utility of the mandate
16 in terms of meeting our planning requirements, and the
17 utility of the mandate in fact of cleaning the air. And I'd
18 be curious as to what the Committee Members' reaction - we
19 have asked BAR and ARB to consider kicking off a workshop
20 that would involve all stakeholders on these performance
21 measures. Maybe we, the IMRC, needs to kick off some sort
22 of workshops to begin to carry forward some of the work that
23 Jeffrey has done over the past year, the discussions that
24 we've had for as long as I've been on the Committee and the
25 concerns that we heard from the public. Perhaps we need to

1 initiate our own workshop to get ourselves completely
2 educated so that we would know what, if anything, we might
3 want to embark on doing or embracing in 2007. What do folks
4 think? The silence is -

5 MR. CARLISLE: Mr. Chairman?

6 CHAIR WEISSER: Yes?

7 MR. CARLISLE: If I may. Awhile back I invited Sandeep Keeshan
8 (phonetic) from ERG, which is the contractor that developed
9 the high-emitter profile. A number of years ago I asked him
10 to speak to the Committee. I haven't had a firm response
11 back yet, but I do know that he had to check with the Bureau
12 of Automotive Repair, so I will follow up on that again as a
13 starter, but I think your suggestion has -

14 MR. WARD: Chair, if I might -

15 CHAIR WEISSER: Not just yet, Randy. I'd like to hear from any
16 other Committee Members. Is this something that's just a
17 dumb idea and we should just kind of muddle along on the
18 issue or it time for us to be engaged?

19 MEMBER WILLIAMS: I don't know that it's an either-or
20 proposition. As this high-emitter profile comes back to it
21 and I, for one, have been asking for about a year to have a
22 presentation there. I don't think any of us can say too
23 much intelligent about the percentage of directed vehicles
24 until we know a bit more about that intermediate step and
25 it's in everybody's interest to understand it more. I would

1 encourage BAR to have that presentation by ERG.

2 MR. CARLISLE: I will ask -

3 MEMBER WILLIAMS: Ask for it for a year, I don't understand why
4 it's so difficult.

5 MR. CARLISLE: I will follow-up on that request and see where
6 it's at right now.

7 CHAIR WEISSER: Thank you. If you need something in writing,
8 please let know.

9 MR. CARLISLE: Yes, I made it directly to ERG.

10 CHAIR WEISSER: Okay. Here's what I'm facing - I'm just going
11 to - I get faced with failure rate data that isn't complete,
12 it's not broken down in 47 different ways, but it certainly
13 doesn't show to me that there's a compelling difference in
14 performance between Gold Shield and test-only. That's
15 number one. Number two, I'm faced with information that has
16 undermined my confidence in the HEP that it's actually a
17 particularly effective tool. It may be better than nothing,
18 but it doesn't sound like it's much better than nothing in
19 terms of directing the right vehicles to test-only or to any
20 stations frankly that are high-performing, that are
21 accurately assessing emission failures. And number three,
22 I'm seeing the performance of the industry that you
23 represent in terms of its attractiveness to the consumer as
24 making me feel frankly less concerned that it's going to be
25 able to effectively compete without such a large or any

1 portion directed. Randy, I've got three months left. I'm
2 just telling you what's on my mind.

3 MR. WARD: No, I think -

4 CHAIR WEISSER: And I'm wondering whether we need to come to
5 grips with these issues.

6 MR. WARD: A couple of thoughts, Mr. Chairman. And I recognize
7 when I talk about the number of volunteer vehicles, at least
8 in terms of my parochial interest, it's a double-edged
9 sword.

10 CHAIR WEISSER: It is.

11 MR. WARD: However, and I'm not sure what went into the HEP
12 number that Mr. DeCota talked about, but one of the aspects
13 that you need to find particularly important here is that
14 these vehicles have been through the cycle. Most have been
15 through the cycle four times. They've gotten fixed or
16 they're getting off the road. It was logical, it was part
17 of the evaluation that failure rates would drop. If someone
18 has the experience of a failing vehicle, remember this is
19 the first time, you know, 98 began the first time, the first
20 cycle didn't complete until probably 2001.

21 CHAIR WEISSER: See, I don't understand what you're saying. I
22 didn't understand it the first time that you said today and
23 I don't understand it now.

24 MR. WARD: You're subject to your inspection every two years and
25 in 98 the program began and they didn't all of a sudden

1 start directing all the cars and sending all the cars to
2 ASM. There were very few test-ONLYS at the time. It took a
3 period of a couple of years and then there were a very small
4 percent that were even still going to test-only.

5 CHAIR WEISSER: It is odd. So it's your point that if consumers
6 Became educated that they need to keep their cars -

7 MR. WARD: Absolutely.

8 CHAIR WEISSER: But that's a great thing.

9 MR. WARD: Yes.

10 CHAIR WEISSER: So that's cool.

11 MR. WARD: This test-only has a couple of major impacts.

12 Clearly that's one. Now, I'm not sure but that the HEP
13 number, in other words, the failing vehicles off the HEP -
14 and I can't remember, what was it, 21 percent or whatever he
15 used, that that number wasn't significantly higher at the
16 onset of the program and that you could look at that number
17 and it's decline would decline almost in parallel with the
18 fail rate showing at test-only stations. The program's been
19 a success if that's the case. The other aspect of that is
20 in the case of test-only, test-only can't do anything else.
21 The big problem as I see it, and I used the analogy of -
22 very quickly -

23 CHAIR WEISSER: Please.

24 MR. WARD: - is that Gold Shield is getting State money to
25 repair those cars, okay, so you certainly don't want to put

1 a station that has an economic incentive in the position of
2 having an incentive to cause that vehicle to fail or to do
3 some kind of a repair on that car because the State's paying
4 for it. So I think that's yet another issue. But I think
5 also importantly is test-only has served to be kind of an
6 honest barometer here. The consumers have liked it. In
7 other words, 44 percent of the consumers go to a station
8 that is far less convenient from a geographic perspective -

9 CHAIR WEISSER: That may be far less convenient.

10 MR. WARD: That's right.

11 CHAIR WEISSER: Yes.

12 MR. WARD: And what is convenience?

13 CHAIR WEISSER: That's another great question. I just felt
14 compelled to kind of layout -

15 MR. WARD: Yes, I appreciate that.

16 CHAIR WEISSER: - I mean, that's my reality at this time and I
17 do think I want to grips with it, but I don't want to come
18 to grips with it at the expense of everything else this
19 Committee's responsible for. Jude?

20 MR. WARD: And I think the important aspect of looking at that
21 issue is asking questions ahead of time. Because if you
22 have the workshop, you will have a lot of emotionally
23 charged arguments that you've heard ad nauseam in front this
24 Committee.

25 CHAIR WEISSER: I think you're right. If we were to have such a

1 workshop, I'd almost want to use the PUC's model of an OII,
2 order-instigated investigation, where you lay out the issues
3 and you specify the questions that you'd like the parties to
4 advance - to address in advance. Thank you, that's an
5 outstanding suggestion, Randy. And I have no idea if the
6 Committee is interested in this. I'm hearing so far one
7 voice saying yes, sounds like it might be a good idea, but
8 I'm hearing a lot of silence, also.

9 MR. WARD: It's also very difficult to get the information
10 because when you compile the test records on a monthly
11 basis, you need a computer like Dr. Williams has. You can't
12 use a PC at home that has a gigabyte of memory.

13 CHAIR WEISSER: Thanks, Randy. I'm going to cut you off and let
14 Jude and then Gideon go.

15 MEMBER LAMARE: Mr. Chairman, you were asking for reactions to a
16 workshop idea on the HEP and directed vehicles and
17 personally, I am so tired of this subject and I really don't
18 know that we're going to get anywhere. It feels like
19 fighting World War II, but I know that the Committee has
20 asked for a report on the HEP and we deserve a report on the
21 HEP. I think that in our regularly scheduled meeting we
22 should expect something like that. It's a dynamic arena.
23 Things have changed a lot in five years. We need to look
24 ahead to the next five years, not to the past. And one
25 thing I've noticed on this Committee is we have spent

1 virtually no time at all on enforcement issues and that is -
2 I kind of agree with Randy. It's the hob of performance is
3 how you do your enforcement. That's really the point of his
4 presentation is that your enforcement program is the key to
5 performance measurement and that until you have a nervosa
6 mutual settlement agreement process, you haven't flushed out
7 your enforcement to the level of detail that makes it a
8 working system for everybody that's in the system. So I
9 appreciate this presentation and I request that we - and
10 I'll make this request later as we look over our report. We
11 put that on the back burner. We put enforcement away
12 because an enforcement monitor had been appoint and we were
13 waiting for feedback from him. We heard one preliminary
14 report. We're sitting here on our hands. We know nothing
15 more about enforcement today than we knew when I started
16 this Committee.

17 CHAIR WEISSER: Thank you. I think it's great that we have
18 people on this Committee who actually care. So Gideon and
19 then Roger.

20 MEMBER KRACOV: Yes, just two very quick points just to follow
21 up on what Jude said. I was going to mention that myself is
22 that actually Bruce and I were assigned to the enforcement
23 subcommittee when you gave the tasks out a couple of years
24 ago and we had some good ideas and think we were moving
25 forward, but we did put that whole thing on hold because of

1 the enforcement monitor so we may want to revisit that. I
2 don't know if we still volunteer to do it. And the second
3 point is on this other issue, which now we're spending the
4 time on it that the Chair did not want to spend. I would
5 support a discussion of it. I remember when we were putting
6 together the Lieber letter a few months ago, Rocky, just to
7 even get an understanding of the legislative -

8 MEMBER LAMARE: The Horton letter.

9 MEMBER KRACOV: Yes, the Horton letter, just to get an
10 understanding of what the SIP says about how many cars
11 should be directed. We had to word it so carefully because
12 we really couldn't even figure it out ourselves, so I think
13 it is a fundamental question. Vic highlighted three things
14 that he thought would be worthwhile to discuss in such
15 workshop and I think a fourth could be what actually do the
16 statutes say because I think we're not clear on that either.
17 But I do think it's important, but perhaps also as Jude said
18 in a way looking forward instead of trying to re-fight the
19 battles of the past, too.

20 CHAIR WEISSER: Roger?

21 MEMBER NICKEY: Roger Nickey. I think we know all there is to
22 know about enforcement. Everything I've been able to try
23 and find out from BAR or anything else is that they don't
24 want to tell you anything. They won't divulge any
25 information about it so I think we probably know all there

1 is to know that's out on the public forum. And the second
2 thing is, all this stuff about HEP just drives me crazy.
3 Why is it so complicated? I can give you a HEP in 15
4 seconds, okay, 90 and older, anything that failed it's last
5 smog test. Forget all the rest, make them all HEP. And if
6 it passes the second time around on the next one, then it
7 comes off the HEP. But everything 90 and older should be on
8 it and why go through all this statistical gymnastics when
9 it could make it easy?

10 CHAIR WEISSER: Thank you. John?

11 MEMBER HISSERICH: Just quickly, but on the issue of HEP, one of
12 the recommendations we're gonna get to when we get to this
13 draft report is the changing cut-points and the issue of
14 cut-points and performance, I think with the technology
15 changing, whether that's in the workshop or some other
16 venue, I think it would be useful for us to understand and
17 maybe in concert with the industry understand that changing
18 flux because things are changing. I think we all agree,
19 it's been mentioned, vehicles are changing. Those rates may
20 be coming down because cars are cleaner than they used to
21 be. So we need to revisit some of those issues and
22 understand those so that's - whether we do that in a
23 workshop or not I think remains open, but we are going to
24 get to this the afternoon, I think.

25 CHAIR WEISSER: Yes.

1 MR. WARD: Mr. Hisserich, you raise a very important point.

2 CHAIR WEISSER: Excuse me, Randy. I appreciate you not making a
3 comment right now. I want to get through with the Committee
4 stuff, okay? Are there any other Committee Members here -
5 are there Committee Members in the audience that would like
6 to share something with us?

7 MEMBER DECOTA: I just needed a little more air, Mr. Chairman.

8 CHAIR WEISSER: Yes, I understand it was warm up here.

9 MEMBER DECOTA: Thank you.

10 CHAIR WEISSER: Your welcome. Randy, please, if you have
11 something to say?

12 MR. WARD: Well, all I was going to say is that Mr. Keller was
13 talking about this program and it's relationship to other
14 programs as they pertain to greenhouse gas emissions and a
15 certainly mobile source are a major component of greenhouse
16 gas. If you could increase the emissions savings on this
17 program by 10 percent, I suspect because mobile source is
18 such a huge percent of the greenhouse gas emissions, you
19 would see a measurable percent there and as you well know,
20 Chairman Weisser, better than I the discussions surrounding
21 legislation on greenhouse gases have profound economic
22 consequences to literally every aspect of industry in
23 California so making those kinds of savings in a relatively
24 painless and cost-effective way are particularly more
25 important now than they might have been six months ago or a

1 year ago.

2 CHAIR WEISSER: Well-stated. Okay. I'm open for public
3 comments. We'll start with Bud and go to Charlie and then
4 to Chris.

5 MR. RICE: Bud Rice, Quality Tune-Up Shops. I appreciate the
6 fact that we wait until after lunch to have that
7 conversation. Just one quick comment. I'm trying to adhere
8 to the admonitions that you said, Chair.

9 CHAIR WEISSER: Why, no one else is.

10 MR. RICE: Well, I'm trying.

11 CHAIR WEISSER: Not even the Chair.

12 MR. RICE: My question is we were talking performance, we were
13 talking about discipline. One of the things I've never
14 heard about is some kind of a comparison and it's only
15 because I've got some questions about it. Not from a
16 comparison against station type, but what is the
17 disciplinary counts against test-only, Gold Shield and test-
18 and-repair stations, because that could - I'd be very
19 curious about that. In other words, if the number of car
20 counts is the same and the number of citations and
21 violations are the same, okay. If there's some kind of a
22 skewed number one way or the other, why is that, so I would
23 kind of have a question about that.

24 CHAIR WEISSER: Good question.

25 MR. RICE: Thank you.

1 CHAIR WEISSER: I have no idea.

2 MEMBER LAMARE: Rocky does.

3 CHAIR WEISSER: Rocky, do you have anything you'd like to share?

4 MR. CARLISLE: I've just got some anecdotal stuff. I've been
5 looking at the stations.

6 CHAIR WEISSER: Let's not get into antecdotal on this one.

7 Okay. I forgot Charlie.

8 MR. PETERS: Yes, Mr. Chairman and Committee, my name is Charlie
9 Peters, Clean Air Performance Professionals representing
10 motorists. My, what an interesting dance today. We've got
11 all kinds of fancy words, but what happens if I set a dyno
12 up right here and I take a Formula One engine and I stuff it
13 in the doctor's Volkswagen, capable of 1,000 horsepower,
14 about three feet per gallon of consumption, and I guarantee
15 the engineers who run that car could set it up where it'll
16 pass any federal test procedure going within one day and be
17 able to do all those functions as well. And that care is
18 going to be completely okay and completely out of the
19 discussion in the methodology that we're talking about,
20 which is basically, tailpipe only, let's decide if we can't
21 pay somebody or coerce somebody or do something and whatever
22 and really nothing matters but the tailpipe. Oh, well, do a
23 little fuel evap here maybe or whatever. Also you can take
24 a 79 Toyota Tercel with a dirty filter that costs four bucks
25 that takes five minutes to fix and nobody ever fixes it. So

1 it really doesn't matter. All purple cars are going to be
2 excused unless we define what we're trying to create. If
3 the manufacturer's configuration doesn't matter, only
4 tailpipe matters and really all we want is just a crushed
5 car so we can make some credits and get the hydrogen economy
6 on its wheels. Well, let's say that, but otherwise let's
7 give some consideration to defining what we're really trying
8 to create here and I think what we're trying to create is
9 keeping cars from becoming broken to significantly impact
10 the air in the state of California and create some quality
11 services that serve the public and cut the impact of cars in
12 California in half in a year, just with the quality issue of
13 getting the program to function properly and fix what's
14 broken so that it works right. Thank you.

15 CHAIR WEISSER: Thank you, Mr. Peters. Chris?

16 MR. WALKER: I'll be very brief. Chris Walker on behalf of the
17 Automotive Business Coalition. I wanted to comment on the
18 mutual settlement agreement and it's proposed impact on
19 enforcement and performance ultimately. CAL ABC is
20 absolutely open to the idea and sees that there could be
21 some mutual benefits to an MSA, not just to industry members
22 who don't have the wherewithal to fight citations they
23 believe were erroneously put upon them, but also the BAR
24 field staff. The savings could be used to redirect towards
25 more progressive means to align with the programmatic goals,

1 so I think that there indeed is a tie-in between the MSA
2 proposal and a performance measure, a performance
3 improvement measure for the program. CAL ABC has been
4 working with that, working with the California Emissions
5 Testing Association on that for several months, but we
6 believe there is some merit to that. The consumer
7 satisfaction index rating, however, I think is somewhat
8 problematic because how you define consumer satisfaction may
9 not align well with the goals of the program. So we would
10 be very wary of including a consumer satisfaction index as
11 part of an overall performance indicator. That being said,
12 we believe that our consumers that are going to test-and-
13 repair or Gold Shield sites field that they have a much more
14 convenient process and are much more satisfied because they
15 can take care of things in one location. Despite all that,
16 we still believe that consumer satisfaction index probably
17 doesn't have a place in judging performance in a program
18 just because consumer satisfaction is defined as something
19 that probably isn't aligned with cleaning the air. The
20 other thing is, and I'll just be real quick, the Gold
21 Shield. I've heard today twice and I've heard in previous
22 meetings of the I/M Review Committee comments about Gold
23 Shield's illegal behavior, manipulating failure statistics
24 to drive up numbers, some type of joint conspiracy amongst
25 all Gold Shield stations and I really think it does a

1 disservice to the members who provide that service and I
2 hope that people don't feed into this idea that they are
3 actually out there manipulating test data to drive up
4 failure rates. One thing that's important to know is if
5 they were to do that, that is an absolute violation of the
6 law. And looking at the 4th quarter of 2005 citation data
7 from the Bureau of Automotive Repair, we note that 66
8 percent of the citations issued by BAR were issued to 21
9 percent of the stations or the test-only facilities. And 34
10 percent of the situations were issued at test-and-repair and
11 zero were issued to Gold Shield. So again, I want to remind
12 the Committee that Gold Shield are upstanding members of the
13 industry and not to feed into this motion that they're
14 manipulating data.

15 CHAIR WEISSER: Thank you, Mr. Walker.

16 MR. WALKER: I can't push that button. Thank you very much.

17 CHAIR WEISSER: Is there anything that BAR would like to add to
18 this discussion?

19 MR. KELLER: In response to Mr. Walker's previous statement
20 regarding the number of Gold Shield stations that have
21 received citations, that is an inaccurate statement. The
22 information that's gotten from the Smog Check Advisories,
23 that is post removal of the Gold Shield certification
24 process, so those stations that are test-and-repair are not
25 differentiated from Gold Shield in that publication.

1 CHAIR WEISSER: Thank you so much for clarifying it. You didn't
2 make Chris' day. Well, now we know how to expedite data
3 delivery from BAR and it's merely to cite wrong data and
4 miraculous things occur. I heard that the HEP is only three
5 percent accurate or is it 93 percent more accurate. Maybe
6 we can get some data on the HEP program. Well, I'm making
7 jokes about what are serious matters. What I'm hearing is
8 not an overwhelming cry to initiate a separate process to
9 look into the issue as I suggested, but rather to proceed in
10 our stolid fashion to explore, drill down a little deeper on
11 the HEP and then perhaps at that time figure out whether
12 there's a course of action suitable for pursuit. I would
13 urge this Committee, however, to look toward action and
14 action that can have some large program impact. And I'm not
15 test-only and test-and-repair, I'm talking about some of the
16 other things that we've heard that could have - from both
17 Randy and Marty - that could have substantial constructive
18 impacts on program performance. With that, Rocky, is it now
19 finally time for us to get into our report?

20 MR. CARLISLE: I believe so.

21 - o0o -

22 CHAIR WEISSER: Rocky suggested to me, (unclear) that we might
23 best start our review of the report by skipping the
24 Executive Summary and getting right into the detail because
25 we can then always loop back to the Executive Summary for

1 changes that would kind of align it with the sorts of things
2 we're talking about in the detailed subjects that are in
3 section two. So if that's okay with the Committee, Rocky, I
4 don't know if you've thought through how you want to
5 proceed. I suspect we're going to have to go subject by
6 subject and then page by page. Is that workable for the
7 Committee? Okay. The first section - and what I'm going to
8 suggest we do is at first talk about the overall
9 recommendations in the section and then talk about specific
10 issues, questions or suggestions for comments in this
11 section. I think we want to as much as possible avoid the
12 sort of word by word edited which I have garnered some fame
13 and I will be leaving Rocky with a detailed edited version
14 and I'll try to keep away from the sort of grammatical sorts
15 of focus that I occasionally obsess about. I will say that
16 I thought the effort here was great above where we started
17 last time, so I really appreciate the work that you've done.
18 So I guess my first question is the recommendation
19 associated with improving station performance by
20 implementing vehicle models specific emission cut-points.
21 It's adding to the number of cut-points to this modest that
22 are now available in the program. Jude?

23 MEMBER LAMARE: Thank you, Mr. Chairman. The only thing I would
24 change in the recommendation is just to say that is should
25 be preceded by an order to achieve more emission reductions.

1 But I do have a lot of problems in this section based
2 primarily up on the fact that the idea about cut-points
3 shifted dramatically from the 2004 report and the report
4 that we got from Sierra Research was not about post-repair
5 cut-points and so I find that more confusing than helpful to
6 go through the background of our prior report tighter after-
7 repair cut-points were recommended. I think it's very
8 distracting and not pertinent to our recommendation. And
9 that if indeed the Committee is recommending the Sierra
10 Research cut-point analysis that we simply limit our
11 discussion of that to the fact that finer cut-points mean
12 more emission reductions from failing vehicles that are now
13 passing by a wide margin, a wider margin than they should.
14 So that would be my recommendation, to delete the
15 background, to delete the tighter after-repair cut-points,
16 change a little bit of the wording, and simply say that this
17 Committee endorses the recommendation made by the Sierra
18 Research study that more cut-points will produce more
19 emission reductions in the testing program.

20 CHAIR WEISSER: Comments and response to Ms. Lamare's
21 suggestion? I think she's right. I think it will add
22 clarity.

23 MR. CARLISLE: Well, the background could become the cut-points,
24 explain what the current cut-point - if we're going to
25 eliminate, the only reason I broke it down like this was

1 because we were originally trying to create some continuity
2 between the previous topic and this, but if we're going to
3 delete this portion of the background, then when we talk
4 about current cut-points, that really is more of a
5 background issue.

6 CHAIR WEISSER: That's great. I think it will simplify it,
7 Rocky.

8 MR. CARLISLE: I agree.

9 CHAIR WEISSER: And I think it's a good suggestion. Are there
10 other comments on this section people would like to make? I
11 have a bunch of editorial things.

12 MR. CARLISLE: One issue I was going to mention that Jude
13 brought up yesterday was on the recommendation, some of
14 these don't require a statutory change and I thought it was
15 a great recommendation she made that - for example, this one
16 would be recommendation to the Bureau of Automotive Repair.
17 It wouldn't necessarily be to the legislature.

18 CHAIR WEISSER: Right. That's okay. We're still making
19 recommendations to report to the legislature and the
20 Administration.

21 MR. CARLISLE: Right.

22 CHAIR WEISSER: Rocky, on Page 2-5, you say the emission - this
23 is on the first full paragraph on 2-5, the emission benefits
24 are up to 7.8 and I don't understand this up to figure.

25 MR. CARLISLE: It is based on how stringent you go on the cut-

1 points.

2 CHAIR WEISSER: Okay. Could you just say that then?

3 MR. CARLISLE: Okay.

4 CHAIR WEISSER: And then you finish that paragraph by saying
5 these benefits seem well worth pursuing, parens, Sierra did
6 discuss lower cost and lower benefit cut-point tightening
7 options and that sentence begs a but.

8 MR. CARLISLE: Yes.

9 CHAIR WEISSER: But what happened, why didn't they recommend it,
10 so if you could fill that - I'm sure there was a good
11 reason. It probably was not as cost-effective, whatever, I
12 don't know, but we need a reason there, it seems to me.

13 MR. CARLISLE: Well, I think we'd better served just to leave
14 that out in this case.

15 CHAIR WEISSER: Either way.

16 MR. CARLISLE: Okay.

17 CHAIR WEISSER: In my mind, either way. John?

18 MEMBER HISSERICH: Well, just real quickly under - on the
19 arguments con, it says it would cost consumers 42 million
20 more, wouldn't it be better to say it could cost. That's an
21 estimate and it doesn't - to say it so positively seems to
22 be to give it weight.

23 MR. CARLISLE: Right.

24 CHAIR WEISSER: Good point. Under the pros, number four, you
25 say repair costs equal 10 to 25 percent of Smog Check

1 program. That seems like an awfully large range.

2 MR. CARLISLE: We'll tighten that up then.

3 CHAIR WEISSER: Yes, I always had heard 75 percent are going to
4 inspections, 25 percent to repairs, but if the number's
5 different, whatever. You also - this is editorial, but
6 maybe I'm missing something in item number three in the
7 arguments pro, you talk about Sierra having three different
8 options if BAR has doubts about some issues, they can - I
9 don't understand what the doubts refers to.

10 MR. CARLISLE: I think the concern is possible errors of
11 commission, false fail rates.

12 CHAIR WEISSER: So if BAR has - can you be more specific and
13 don't use the word doubts there so the reader understands?
14 You can repeat what you said in the body of the report
15 regarding -

16 MR. CARLISLE: Right.

17 CHAIR WEISSER: - concerns regarding the errors of commission.
18 Any other comments on this session? Terrific. Can we move
19 to Smog Check program avoidance?

20 MR. CARLISLE: One thing about this issue, initially we had
21 identified four areas of program avoidance and actually
22 there's a fifth. We had put down late Smog Checks or late
23 registration, change of ownership Smog Checks, we had put
24 down the magic button that the Department of Motor Vehicles
25 that I'm still waiting for information on, but I think

1 that's more of an enforcement and control issue on their
2 part. I don't think it amounts to very much talking to DMV,
3 but I think we do need to get that information. And the
4 other issue, the fifth issue was unregistered vehicles. I
5 think both of those, for example, unregistered vehicles,
6 it's already illegal to drive a vehicle on the road that's
7 unregistered so the number of unregistered under Section
8 4000 of the California Vehicle Code, that's going to be
9 enforce by CHP at some point, but the late registrations may
10 or may not be. So I've identified three areas that we've
11 covered in this report. One is the late registration, two
12 is the change of ownership in the enhanced areas where
13 they're done off-cycle which accounts for about 20 percent
14 of the vehicles, and the other is the international
15 registration plan. Now what I did with the international
16 registration plan, I made mention of it, but we still don't
17 have enough information on that, so it really boils down to
18 the two issues and while we had originally talked about - in
19 talking to Gideon and Roger on this issue, we had talked
20 about an annual test in lieu of a fine, but one of the
21 things that eliminated the gross polluter issue back in 1996
22 was the annual test. And the legislature was very quick to
23 eliminate that and so we discussed it and we thought we -
24 actually Roger came up with one idea just saying that the
25 registration is complete until such time as they complete

1 the Smog Check and I'll explain that issue. Or the other
2 option was to simply assess a fine. Now in this document, I
3 put in to assess a fine at 60 days late, but the reason I
4 changed it from the other is simply because there's two
5 issues; one, vehicles that have not completed the Smog Check
6 consist of 25.5 million vehicles roughly that are subject to
7 the I/M program, so they come up to their due date on
8 registration and if they haven't submitted the Smog Check,
9 that's fine, they could be deemed as incomplete. But what
10 about the other 20 million vehicles in the same DMV database
11 that would cover trailers, heavy duty vehicles, motorcycles,
12 you name it. That would require, if I'm not mistaken, a
13 huge programming change on the part of the Department of
14 Motor Vehicles. Secondly, when a vehicle becomes delinquent
15 at DMV, it's turned over to the Franchise Tax Board. So now
16 we would have vehicles being turned over to the Franchise
17 Tax Board that did not have a Smog Check so I think it's
18 certainly up to the Committee what you want to do with this,
19 but I think it opens up kind of a can of worms with anything
20 except assessing a fine.

21 CHAIR WEISSER: Okay. A couple of reactions. Roger, you first.

22 MEMBER NICKEY: Roger Nickey. As you might suspect, I have a
23 reaction. For some reason, I don't understand this turn it
24 over to the Franchise Tax Board, because they don't turn, at
25 least to my knowledge, they don't over delinquent

1 registrations to the Franchise Tax Board if you didn't pay
2 your fee. You usually get a continuation of the penalty and
3 increase in the penalty and you get a delinquent notice from
4 DMV that says your registration is not complete, by the way
5 here's your extra penalty. And my suggestion was is since
6 that framework's already in place, right now your
7 registration is not complete if you don't pay your money.
8 Would this have to be changed to your registration's not
9 complete until you pay your money and pass your Smog Checks.
10 Everything else is already in place. The penalty
11 structure's already there and everything else, but can you
12 explain to me what the Franchise Tax Board has to do with
13 this?

14 MR. CARLISLE: Yes, the DMV has no statutory authority to do any
15 except to penalize the motorist, the registered owner. In
16 the case of the Franchise Tax Board, somewhere between three
17 and four months of delinquency, they turn that vehicle or
18 that registration delinquency over to the Franchise Tax
19 Board, they in turn can go after tax returns, they can go
20 after savings, they can go after retirement, they can go
21 after any source of fund that you have to collect the monies
22 due.

23 MEMBER NICKEY: Am I the only person that hasn't heard about
24 this?

25 MR. CARLISLE: In this case, they'd be turning it over to the

1 Franchise Tax Board for Smog Check.

2 MEMBER KRACOV: But it's one of the essential elements - I'm
3 also on this committee, but it's one of the essential
4 elements of registration.

5 MEMBER NICKEY: That was my reasoning. If it's not complete,
6 then you are in the process.

7 MR. CARLISLE: We can certainly change it back. That's simple.

8 CHAIR WEISSER: And you were warning us against that because you
9 think it would be a major reprogramming job for DMV?

10 MR. CARLISLE: I think that would be almost a guaranteed oppose
11 by DMV which I think would be problematic to overcome.

12 CHAIR WEISSER: Because of the costs associated with the
13 programming change?

14 MR. CARLISLE: Yes.

15 MEMBER NICKEY: Do we know that for sure? I would just - I've
16 always heard this, but I would like to hear from somebody -
17 excuse me, I didn't mean to say that.

18 MR. CARLISLE: No, I've got a call in to find out. I've got an
19 email to that I haven't had a response to.

20 CHAIR WEISSER: I would like to check that out.

21 MEMBER NICKEY: Yes, I'd like to hear it from a programmer.

22 CHAIR WEISSER: You've got two program chairs, I mean co-chairs,
23 in this that are oriented toward what they had recommended.
24 I -

25 MEMBER NICKEY: Well -

1 CHAIR WEISSER: If I might - I had questions of why the \$60 and
2 why the split in monies, I just didn't understand the
3 rationales for that and I also think we need to list all the
4 potential sources of program avoidance. You only have three
5 there. The fourth is the failure to register by -

6 MR. CARLISLE: Right.

7 CHAIR WEISSER: You know, the ones that never - but you said
8 there was five and I couldn't catch the -

9 MR. CARLISLE: Well, we keep hearing about the quote magic
10 button, the bypass at DMV and that's another issue I have a
11 recommendation on.

12 CHAIR WEISSER: Yes, you know, that's the same sort of thing of
13 allegations of individual stations cheating or individual
14 things.

15 MR. CARLISLE: I would say we ignore that because at certain
16 times where consumers, they're going to go for consumer
17 convenience, if they have proof of a Smog Check.

18 CHAIR WEISSER: I'm just not really willing to have my name
19 associated with a report that doesn't have evidence behind
20 an allegation like that. If you can come up with evidence,
21 I'm willing to put it in, but I've seen nothing other than
22 people having suspicions or whatever.

23 MR. CARLISLE: Maybe if I offer the suggestion that we go ahead
24 and change it to the subcommittee's recommendation and it's
25 going to go out for comment to DMV anyway.

1 CHAIR WEISSER: Let's hear what the other folks have, but I
2 think that's the message that I'm getting.

3 MR. CARLISLE: Yes.

4 CHAIR WEISSER: So, Gideon?

5 MEMBER KRACOV: Yes, I had stepped out when we were talking
6 about the cut-points and I came in I guess a little bit into
7 this discussion, but Roger and I have been working on it and
8 there is a little bit in this paperwork that's in front of
9 us that I don't Roger and I have fully gone through yet.
10 But I - just to step back a little bit as to where we are on
11 this, I think that you're trying to talk about program
12 avoidance and because the Smog Check program is linked to
13 registrations, that's how you know if someone has completed
14 their Smog Check, that's why we did look at the
15 registrations and then we did identify sort of these five
16 areas, which again, the late Smog Check which was Jeffrey's
17 inquiry, the change of ownership, I guess the international
18 registration plan which I'm not that familiar with, and the
19 two other things were folks that just don't get registered,
20 Smog Check or not and then finally is this black box now -
21 or magic box and we're trying to figure out which of those
22 we can address and that's where our recommendations came
23 from primarily focusing on these late registrations because
24 we really can't deal too much with the change of ownership
25 until they're due. The international registration I'm not

1 familiar with. The folks that just don't get registered,
2 that's just an enforcement issue we can't really do much
3 with, but this magic box did come from some of the analysis.
4 Our parking lot study and then some of the studies, I think
5 the Sierra Club in 2000 showed that there are a percent or
6 two of cars on the road that appear to be registered that
7 failed their last Smog Check, so I wouldn't give up on this
8 entirely. I would like at least, if we're going to put this
9 out as recommendations of the subcommittee and have DMV come
10 in here and other to talk about it, I would like to ask them
11 those questions. From the analysis that I've seen, they're
12 do appear to be a significant number of cars on the road
13 that are registered and failed Smog, so it's not 100
14 percent, but it may be one or two and that's a lot of cars.

15 MR. CARLISLE: Right. And one thing I wanted to bring up, too,
16 if we do in fact go to the - change this fine procedure,
17 then we eliminate the change of ownership capturing that -
18 those vehicles. In other words, they aren't due - they've
19 already completed the registration process. So, for
20 example, if they're going to sell the car and then decide
21 not to sell the car and in the interim they've had a Smog
22 Check, then that one is just null and void for purposes of
23 this document.

24 MEMBER KRACOV: Yes and there may be explanation for that black
25 box, but it's worth asking the questions.

1 MR. CARLISLE: Okay.

2 MEMBER LAMARE: You said it, Gideon. Okay, the next speaker is
3 Bob Pearman.

4 MEMBER PEARMAN: Just so I can be clear, then if you go back to
5 the subcommittee's recommendation, did they have this issue
6 about splitting up the fine and do these various categories
7 go away or is it a different -

8 MR. CARLISLE: No, similar to that I think only covered two, but
9 in thinking through it, there would be three entities you'd
10 have to pay for DMV costs, you'd have administrative costs
11 to make this programmatical change, you'd have to pay for
12 BAR costs because they're the ones that would have to
13 control this, and then the remainder would go, it just made
14 sense, that that would go to the (unclear).

15 MEMBER PEARMAN: And what is additionally DMV doing that this
16 fund will have to pay for?

17 MR. CARLISLE: It's just another programming step that they have
18 to account for. And currently they charge - I forget the
19 exact figure, but it's in the millions of dollars they
20 charge the Bureau of Automotive Repair to administer their
21 portion of the Smog Check program, i.e., enforce the
22 documentation prior to issuing the registration.

23 MEMBER PEARMAN: Thank you.

24 MEMBER LAMARE: Now looking at - I have a comment, then I'm
25 going to call on John Hisserich, then I'm going to call on

1 Roger Nickey. Looking at page 2-7 in that final paragraph
2 where we're talking about the change-of-ownership Smog
3 Checks where the vehicles failed and were not fixed and were
4 not sold.

5 MR. CARLISLE: Right.

6 MEMBER LAMARE: In this paragraph, it states that change-of-
7 ownership inspections are 20 percent of all gasoline-powered
8 vehicles each year.

9 MR. CARLISLE: Yes.

10 MEMBER LAMARE: But it does not say what percent of that group
11 fails, does not get repaired and does not get sold. And
12 really, that's the only part of that group that we're
13 concerned about. So we either have to identify how big that
14 group is or I think we're in a very strange place to be
15 talking about it. Further at the end of this paragraph, you
16 say our analysis indicates increased emissions from this
17 fleet of vehicles, meaning emission reductions that aren't
18 capture by a requirement to fix the vehicle. This indicates
19 that you - someone, maybe Jeffrey, has searched the data to
20 try and figure out -

21 MR. CARLISLE: Yes.

22 MEMBER LAMARE: - how many vehicles we're talking about here and
23 what the emission reductions are, so if we corral that
24 information and can make a nice case about it, then I think
25 we should go ahead. But, if not, then this is very

1 speculative. I would also note that it says here they will
2 drive the vehicle for another 12 months. I think what you
3 mean is they will drive the vehicle until their biennial
4 Smog Check becomes due and unclear how long - that will vary
5 a lot from vehicle to vehicle. As I recall you had a made a
6 recommendation then that vehicles that were tested for
7 change of ownership failed and were not repaired would be
8 required to be repaired in 60 days.

9 MR. CARLISLE: Yes.

10 MEMBER LAMARE: Now was that - that wasn't following what Bob
11 Pearman and Gideon were talking about there in terms of
12 subcommittee recommendations and - is that still the
13 recommendation that we would making that these vehicles that
14 are taking in for a change of ownership fail, do not get
15 repaired and do not get sold, would still be required to get
16 fixed in 60 days?

17 MR. CARLISLE: No. What they're suggesting is if these vehicles
18 do not complete the registration cycle until such time as
19 the DMV receives the documentation and so even if they paid
20 the fees or the registration fee, the penalties would
21 continue to accrue until such time as they got the Smog
22 Check. Right now, penalties don't accrue if they pay the
23 fee.

24 MEMBER LAMARE: Jeffrey, are you addressing specifically this
25 question and I'll take you out of order?

1 MEMBER WILLIAMS: I think Rocky just answered in a confusing
2 way. If it's change of ownership, there's no fee due, so
3 that whole part goes away.

4 MR. CARLISLE: Right.

5 MEMBER WILLIAMS: You can't control that.

6 MR. CARLISLE: On the change-of-ownership test - okay, but I
7 thought you were talking about the recommendation.

8 MEMBER WILLIAMS: The recommendation about timeliness is only
9 about those that are due in the regular cycle.

10 MEMBER KRACOV: Right, it's not about the change of ownership.

11 MEMBER LAMARE: It's not about the change of ownership, okay.

12 MR. CARLISLE: Right, it would just be about the biannual.

13 MEMBER WILLIAMS: And you see that I'm supposed to do some
14 analysis and I haven't done it yet.

15 MEMBER LAMARE: The summer's almost over, Jeffrey.

16 MEMBER WILLIAMS: Summertime's over and other things have been
17 pressing. I hope to have it by the end of September for our
18 next meeting, but I'm not sure I will. In part this all
19 presumes that those change-of-ownership tests are accurately
20 identified in the data and the more I look at those codes,
21 the more nervous I get about them.

22 MEMBER LAMARE: Okay. So we're going to revisit this.

23 MEMBER WILLIAMS: Yes.

24 MEMBER LAMARE: John Hisserich?

25 MEMBER HISSERICH: Well, just quickly that international thing

1 that we've talked about, so the rental car is basically what
2 we're talking about isn't it?

3 MR. CARLISLE: No, this is the fleets - there's a number of
4 fleets that register in other states and if they register in
5 their home state essentially, that's the I/M program their
6 subject to.

7 MEMBER HISSERICH: Well, then all of the vehicles that we see at
8 the various rental agency lots that have often times Arizona
9 plates or something -

10 MR. CARLISLE: That could be part of it, U-Haul was part of it.

11 MEMBER HISSERICH: - that presumably would be part of it as
12 well. And it says that we're doing something at a later
13 date. I just would like to know a little more about that
14 because it just strikes me - even with the conservative
15 numbers here, that's 140 - 150,000 vehicles, which is a
16 substantial number, admittedly probably fairly new vehicles
17 so there's probably the positive aspects of that, but it
18 would just be useful to know a little bit more because some
19 of those may be driven hard, so we're just going to work a
20 little bit more on getting some numbers of the rules on
21 that. And if those vehicles are subsequently sold by the
22 rental agency, then what occurs?

23 MR. CARLISLE: Depends on where they're sold. If they're sold
24 in -

25 MEMBER HISSERICH: If they're sold in California -

1 MR. CARLISLE: For example, U-Haul I believe is in Arizona then
2 they'll be subject to their program unless they're sold in
3 the state of California.

4 MEMBER HISSERICH: I was going to say, if they're sold in
5 California -

6 MR. CARLISLE: Sure.

7 MEMBER HISSERICH: - which might be an interesting thing.

8 Presumably then they'd have to be brought under California
9 rules.

10 MR. CARLISLE: Correct.

11 MEMBER HISSERICH: And they do turn a lot of those vehicles
12 over, I think.

13 MR. CARLISLE: Yes, but only after very high mileage.

14 MEMBER HISSERICH: Well, there's another reason to watch those
15 vehicles.

16 MR. CARLISLE: The other issue with regard to the IRP is the
17 fact that - I have requested this data from DMV, one of the
18 problems is, however, unlike normal DMV data, which is in an
19 electronic database, IRP is all on hardcopy. It's my
20 understanding it's not in a database at this point in time
21 and we're talking about 1.44 million vehicles, so that's a
22 lot of pieces of paper to try to sort through.

23 MEMBER HISSERICH: It's just something that I think amongst all
24 the things to do, it is interesting to understand that and
25 to get the impact of it.

1 MR. CARLISLE: I agree.

2 MEMBER LAMARE: And Roger, Roger Nickey, did you want to make a
3 comment?

4 MEMBER NICKEY: Of course.

5 MEMBER LAMARE: All right.

6 MEMBER NICKEY: On the matter of transfers, there were two
7 separate things involved here. One, if I have a car and
8 it's registered and I decide to sell it and I go down and
9 get a Smog Check and it fails and so I decide not to sell
10 it, I just don't see how you're gonna control that one. But
11 the other one is that I have a car, I get it Smog Checked,
12 it fails, the person buys it anyway or they buy it and they
13 test it and it fails, so the person that buys it just says,
14 well, gee, I've got to the end of November or January or
15 whatever, until the registration comes up, I'm just going to
16 drive it. Now I think that needs to be addressed and it can
17 be addressed in the same way as the penalty phase on
18 registration. You have so many days to finish the transfer
19 and register it in your own name or penalties start to
20 accrue and if it's cause by either, you don't come down and
21 do the paperwork, or the Smog Check isn't complete, then the
22 penalties should start accruing. Now the penalty on the
23 renewal that was mentioned about the millions of dollars it
24 takes to reprogram, has anybody addressed how many millions
25 of dollars you'd take in penalties for these cars that have

1 not been paying for completed Smog Check before and if we
2 continue to assess penalties until they did pass, what the
3 increase in revenue would there? Would it offset, would it
4 be more, what? The end.

5 MEMBER LAMARE: Thank you. Other comments?

6 MEMBER WILLIAMS: Well, given that about 20 percent of people
7 are late, it would be a huge amount of revenue someplace.

8 MEMBER LAMARE: At some point, they might learn to do the right
9 thing and then the revenues would go down. Gideon?

10 MEMBER KRACOV: My understanding is these are all still works in
11 progress. What is the timeline on finalizing these
12 documents, Rocky?

13 MR. CARLISLE: I was hoping to finalize it before the next
14 meeting.

15 MEMBER KRACOV: Before the next meeting, okay. On the program
16 avoidance, we didn't - we are not trying to address a
17 problem that really isn't that significant, so I think we
18 were very impressed by what Jeffrey showed us and we're
19 trying to craft a way to deal with that problem. As I
20 indicated, I do believe that this particular section, the
21 four or five pages, has to be reorganized, reworked a little
22 bit. I'm still not comfortable, Rocky, as you were aware
23 with some of the data analysis on Page 2-9. I think it's
24 very confusing. But you also know that we're equally
25 committed to work with you on that and we can get that all

1 straightened out. The way that I would prefer to see this
2 particular recommendation laid out is a little bit more of a
3 logical flow, which is we are tasked to look at program
4 avoidance, we tie this to the registration issue, and we see
5 five particular problems. You can talk a little bit about
6 those different problems, but in the end, our recommendation
7 is only addressing the most serious problem, which is the
8 problem of late Smog Check for required biennial
9 registration. So I think that by putting the other stuff
10 into here and by focusing on it so much it gets to be a
11 little bit confusing. So I think that we can spend the next
12 month in kind of focusing this discussion here, but I think
13 in the end what it's going to come down and Roger, who has a
14 lot of experience in this stuff really strongly believes
15 this, too, is that we have identified a real problem here.
16 Jeffrey, I don't know if we've quantified in terms of tons a
17 day appears to be that the HC and NOx can be one or two tons
18 a day so we can begin some of the cost-benefit analysis that
19 a rigorous recommendations would require, so I think we have
20 the foundations here for what can be a sensible
21 recommendation that this Committee can endorse, but I think
22 it has to be laid out in a little bit more of a logical
23 manner and just a little bit clear as to what the problem
24 is, how we're addressing it, and what the benefits are. And
25 I think at that point in time, it would be, particularly

1 this recommendation, very worthwhile to vet it through DMV,
2 through the other regulators and to get their opinions on
3 it. And I just wanted to -

4 MR. CARLISLE: We can actually vet it before we release the
5 report if you like. Because it doesn't become public
6 information by sending it to another agency providing they
7 agree to keep it confidential.

8 CHAIR WEISSER: I think once you get a version that the co-
9 chairs are satisfied with, that would be a wise thing to do,
10 Rocky.

11 MR. CARLISLE: Okay.

12 CHAIR WEISSER: Now, the one downside of that that we need to
13 keep in mind is DMV's ability to respond in a timely fashion
14 to the request for vetting and you need to put a constraint
15 around that so that we just don't get left out in limbo
16 land. Gideon, please.

17 MEMBER KRACOV: And in the next week, Rocky, we can spend some
18 time on just moving a few things around and I don't think it
19 requires much work. But just one last observation that I
20 had. This whatever it is, 1.3 percent or one percent of
21 cars that are on the road registered, but appear not to have
22 their Smog Check, some of that actually, now that I think
23 about it, could be the change-of-ownership cars, right?

24 MR. CARLISLE: Yes.

25 MEMBER LAMARE: Right, okay.

1 MEMBER KRACOV: So those don't necessarily have to be magic
2 boxes or black boxes, but they couldn't - they'd be this
3 category.

4 MR. CARLISLE: As I recall, yes.

5 MEMBER KRACOV: Okay.

6 CHAIR WEISSER: And I have several other little clarifying
7 suggestions that I'll leave with you, Rocky, and a couple of
8 questions that I think will probably taken care of in the
9 next rewrite.

10 MR. CARLISLE: Okay.

11 CHAIR WEISSER: The next one is comparison to test-only, Gold
12 Shield, test-and-repair smog stations and we shouldn't have
13 very much to say. That was a joke, folks. Jude?

14 MEMBER LAMARE: My one comment here is that when we start off
15 with a section we call it comparison of test-only, Gold
16 Shield, and test-and-repair Smog Check stations, I just
17 think we need a sentence here saying the April 2004 ARB/BAR
18 report found performance differences between test-only, Gold
19 Shield, and test-and-repair, but these findings were based
20 on I believe it was 1998 to 2001 data.

21 MR. CARLISLE: yes.

22 MEMBER LAMARE: And IMRC has been analyzing the recent data to
23 point out that an earlier - this all comes from an earlier
24 finding and our recent data brings it into question.

25 CHAIR WEISSER: I think that's an outstanding suggestion. I

1 have a question that relates to something that appears here
2 and in a variety of other sections and I just want to get
3 the read of the Committee. There are several times during
4 this report that we reference Jeffrey Williams, Dr. Williams
5 believes, Dr. Williams found, dah, dah, dah. It is my
6 believe and recommendation to you that we need to eliminate
7 the specific references to Dr. Williams and instead indicate
8 that this the IMRC believes and states. This is our report,
9 it's not Jeffrey's report, and I just do not think it's
10 appropriate to have any once Committee Member's name be
11 there. And if we did that, we'd have to do an awful lot
12 with Jude Lamare's consumer survey and I just think it's
13 best that we either embrace as our own or reject it now.
14 Jeffrey are you going to be insulted by that?

15 MEMBER LAMARE: But we have to recognize the fact that Jeffrey
16 did some analysis on this 25,000 Sample D vehicles because
17 it's on this Sample and this analysis that these conclusions
18 rest and we have to recognize what was the analysis, what
19 were -

20 CHAIR WEISSER: No questions regarding that, but I think it
21 should be like the IMRC examined this data and believes.
22 I'm putting that out, I'm not saying that -

23 MEMBER LAMARE: Well, I disagree. I think that we can say that
24 IMRC has reviewed an analysis of 25,000 Sample D vehicles
25 prepared by Dr. Jeffrey Williams, University of California

1 Davis.

2 CHAIR WEISSER: I'm comfortable with that.

3 MR. CARLISLE: Okay.

4 CHAIR WEISSER: But I just - particularly use the word

5 recommends and believes, I think that needs to be us a

6 whole. I have one other major comment here. I want to put

7 it out and I'll return to it when we go through it and

8 that's regarding the recommendations. We indicate none at

9 this time and I think that we should consider putting a

10 recommendation that is the logical follow-up to the

11 questions that we raised in our response to Assemblywoman

12 Horton's request, her letter. And I think the

13 recommendations, that those issues clearly point toward the

14 need for further - for the initiation of further

15 investigation associated with the existing program for

16 directing vehicles. I think that's the upshot of what our

17 letter says and I think we ought to say we think the

18 agencies, in particular ARB, needs to look at the gamut of

19 issues associated with that question. That would be my

20 recommendation to the group. Anyhow, I think what I'll do

21 is start down at Jeffrey, work our way up and then return to

22 this proposed change and recommendation. Jeffrey?

23 MEMBER WILLIAMS: I just wanted to remark on this issue of

24 authorship and so forth and I think this applies not just to

25 the study I've done, but other studies we've seen. I think

1 have the distinguish the study, so should there be some
2 major error in it, you all don't have to take that dubious
3 credit, only I get it. But that you are convinced by the
4 analysis -

5 CHAIR WEISSER: That's what I intend.

6 MEMBER WILLIAMS: Yes, and it's not that I want ownership rights
7 here, no. I think we want to distinguish that my
8 presentation from the conclusions drawn from it and there
9 ought to be wording that gets that -

10 CHAIR WEISSER: And that was the intent of what I was
11 suggesting.

12 MEMBER WILLIAMS: I'm agreeing with you, but I don't know if you
13 want to say the IMRC analyzed Sample D, I did.

14 CHAIR WEISSER: Yes, you're right, we can't say that. But I can
15 say that we - well, just the wording that you used. Based
16 upon this, the IMRC believes or based our review of this
17 blah, blah, blah. I think we need to embrace the
18 conclusions, not -

19 MR. CARLISLE: Okay.

20 MEMBER KRACOV: And if you put the word eminent in front of
21 doctor.

22 MR. CARLISLE: One thing I wanted to point out on Page 2-14,
23 this is something that Jeffrey and John suggested, that next
24 to the last paragraph in the middle of that paragraph, it
25 says given the major statutory changes in 2004 that impacted

1 the Smog Check program, the original decision to direct 36
2 percent of the vehicle fleet to test-only is called into
3 question. And so that's not exactly a recommendation, but
4 it -

5 CHAIR WEISSER: And in fact in my mind, I believe that should be
6 excised. I don't think that's the issue at all -

7 MR. CARLISLE: Okay.

8 CHAIR WEISSER: - is the 2004 statutory changes. I think that
9 there have been many, many factors that influenced the need
10 - I'm not saying making a change, but I'm saying the time is
11 appropriate to look at the basis upon which these decisions
12 were made, both in terms of the State, the legislature, and
13 the U.S. EPA. I think that you can't do this unilaterally.
14 This has implications in terms of the SIP, it has
15 implications that need to be looked at pretty broadly.
16 We're not capable of doing that. The ARB is with our input,
17 the BAR's input and with the input of every stakeholder
18 that's been active in this proceeding.

19 MR. CARLISLE: Right.

20 CHAIR WEISSER: Dennis, I'm going to get to you in a second, but
21 I'm going to work our way down here.

22 MEMBER DECOTA: I understand.

23 CHAIR WEISSER: So you come sit up here.

24 MEMBER DECOTA: I can't. I have to leave.

25 CHAIR WEISSER: Okay. If you have to leave right now, would the

1 Committee if we asked Dennis to - Dennis, please.

2 MEMBER DECOTA: Thank you. Thank you for your indulgence. I do
3 have to be in Fresno. The issue of the recommendation under
4 not at this time. I came onto this Committee, it was a
5 different name, in 1993.

6 CHAIR WEISSER: Your name or the Committee's name was different?

7 MEMBER DECOTA: My name was the same. But in our first
8 evaluation report, which we were never able to get out under
9 Lynn Scarlett (phonetic) the chair, we had a recommendation.
10 Under our last report in 2004, we actually didn't get to the
11 recommendation, but we did have in our previous
12 recommendations on 2004 - Item No. 8 on Page 1-6, which
13 basically says allow the consumer to select a Smog Check
14 station of their type. And here we're headed for another
15 report without having the hundreds of hours of testimony by
16 industries on both side of the issue address in our report.
17 It's been a long time, folks. We ought to stop
18 pontificating and do this thing whether we like it or not
19 and as a Committee Member, I ask that we do that. Mr.
20 Chair, I'm willing to do it as you've outlined in your
21 preferencing remarks. I think that was a good basis to go
22 by which was the letter to Assemblywoman Horton and the
23 answers and the responses. But it's time that we put it in
24 here. There's literally thousands of small business that
25 need some type of voice. And either I'm on this Committee

1 to be their voice, and I can't be stifled on this issue, so
2 I ask a Committee Member that you consider this as a
3 recommendation to some point. Whether I like it or not,
4 that's not the point. The point is that we quit punting on
5 this issue. Thank you.

6 CHAIR WEISSER: Thank you, Dennis. Okay. We'll now continue in
7 our march from left to right. I think, Roger, you had your
8 - did you have your -

9 MEMBER NICKEY: Yes, I did.

10 CHAIR WEISSER: Please.

11 MEMBER NICKEY: I just have some problem with this particular
12 section because it seems to be only a partial analysis and I
13 get a little nervous about committing things to print that
14 are a partial analysis because sometimes they have a
15 tendency to get quoted out of context. Randy Ward and I
16 have discussed this quite a lot about this matter and he's a
17 lot more eloquent than I am and I was hoping I could get him
18 to comment just for a few minutes on this, can I do that?

19 CHAIR WEISSER: I'm certain we can, but I think our protocol is
20 normally have our Committee Members talk and then -

21 MEMBER NICKEY: That's fine.

22 CHAIR WEISSER: Would that work for you?

23 MEMBER NICKEY: Yes, that's just fine.

24 CHAIR WEISSER: Okay. Any further comments on this side?

25 MEMBER HISSERICH: Well, yes, I would -

1 CHAIR WEISSER: John, if you could just put your mics up so I
2 know who -

3 MEMBER HISSERICH: Anyway on the issue of a recommendation under
4 this section, I tend to agree with the Chair and I was on
5 the subcommittee that chose earlier not to have one. I
6 think some recommendation, which is essentially for further
7 analysis is what you're saying, because we are as we've
8 repeatedly heard, at the juncture where this is an issue
9 clearly before and constantly before us, so I would agree
10 with your recommendation. The question about the section
11 back on 2-14 where we were going to delete that sentence
12 there on the 36 percent, in some respects - now I guess I
13 would agree to take that out, but in light of the fact that
14 we're going to continue to study it, so rather than -

15 CHAIR WEISSER: Yes, I just don't want to - my point and I
16 shouldn't talk over you. I'm sorry, I apologize for this to
17 the stenographer.

18 MEMBER HISSERICH: That's all right.

19 CHAIR WEISSER: My point is that there are a whole variety of
20 factors that to me make this right for full-blown look see
21 by ARB. The 2004 changes certainly are one of the factors,
22 but they're not the factor, it's some of the things we've
23 heard today in terms of performance and other questions. I
24 think there's a whole bunch of things that make this ripe,
25 including the U.S. EPA's attitude towards how they credit

1 Smog Check program and I think there are a variety of issues
2 that need to be explored before anything gets done, but I
3 think we know enough now to say the underlying beliefs and
4 assumptions that were made when the program was first put
5 into effect. Those conditions are no longer - they appear
6 to have changed and -

7 MEMBER HISSERICH: But we're not going to say all of that in
8 here.

9 CHAIR WEISSER: If you want to, I don't care. I just want this
10 to be pinned on the 2004 legislative changes. We can either
11 say -

12 MEMBER HISSERICH: All right. I see what your point is. Now,
13 just one quick stylistic note on the Williams' issue,
14 Williams' syndrome. We could just say that a study was
15 directed by Dr. Jeffrey Williams and then not repeatedly
16 refer to Dr. Williams found, Dr. Williams found, but the
17 study said and just do it that way.

18 CHAIR WEISSER: Thank you. Gideon?

19 MEMBER HISSERICH: And I agree with Chair Weisser's suggestion
20 as to how we could frame a recommendation. I know that you
21 highlighted this issue on Page 2-14 about this one
22 particular sentence and you indicated that your concern was
23 that we were limited ourselves somehow to the 2004 issue
24 when instead you had a larger question about the whole
25 direction issue and what the facts are and what the

1 governing laws and regulations are and I think there's no
2 doubt after looking through that Horton letter that there is
3 confusion and there needs to be clarification on that. But
4 I do not think that as currently written, these four pages
5 convey that. So I think - in fact I don't think we really
6 even talk about the Horton letter until Page 2-14 and then
7 there's just a few sentences, one of which we're going to
8 take out. So I think we can put something in there that our
9 workup on these questions perhaps created more questions
10 than answers for us and that's why we need the
11 clarification, but I do think that that has to be set forth
12 in here a little bit more clearly if that's what our
13 recommendation is going to be.

14 MR. CARLISLE: Yes, this was just a method, if you will, of
15 folding in the Horton letter since we had devoted so much
16 time to that document. I mean, that was three months for a
17 response to a letter and so it was felt by the Committee
18 that we should at least mention it in the report. That
19 seemed like the most appropriate spot to mention it, but you
20 have a good point that it did raise a number of questions as
21 well, so I will edit that.

22 CHAIR WEISSER: Good luck, Rocky. Okay, can we move on? Do we
23 need a vote? So I've made a recommendation that we make a
24 recommendation. I move that we make a recommendation that
25 the report be modified so that it recommends that the issue

1 associated with the percentage of vehicles directed to test-
2 only stations be subject to a thorough public analysis of
3 the factors that now exist, which underlie the rationale for
4 that direction to identify whether they're still appropriate
5 and that the ARB be requested to complete that analysis with
6 the involvement of the stakeholders, including the IMRC and
7 the industry, and report to the legislature on its findings.

8 MALE: Is that a motion?

9 CHAIR WEISSER: I'm making a motion toward that end. Do I hear
10 a second?

11 MEMBER GIDEON: I'll second.

12 CHAIR WEISSER: Seconded by, is it Gideon or Robert? Pardon?

13 MR. WARD: Is there going to be any public comment this?

14 CHAIR WEISSER: I'm sorry, I couldn't hear you, Randy.

15 MR. WARD: Is there going to be any public comment on this
16 section?

17 CHAIR WEISSER: That's a very good point, thank you. And I
18 think we have to. Let's get the recommendation, it's been
19 seconded. We'll now ask if there's any discussion from the
20 Committee Members. Gideon?

21 MEMBER KRACOV: Yes, just my observation on the prior matter,
22 which was the program avoidance and perhaps on this one, I'm
23 not sure if this report can be completed and voted on at the
24 next meeting. Maybe it can, maybe that's a goal that we
25 should shoot for, but it does seem that there's going to

1 need to be some significant wordsmithing before that
2 happens.

3 CHAIR WEISSER: The Executive Director is nodding his head. I
4 think - recognize that we're putting a substantial burden on
5 him. We haven't gotten halfway through the report yet and
6 so we'll have Rocky give it his best try and we'll see how
7 far we get, but it's going to be very difficult, I agree.
8 We'll move down my left to the right, John?

9 MEMBER KRACOV: That may also provide the opportunity on this at
10 the next meeting.

11 CHAIR WEISSER: Are you suggesting that we not take a vote then
12 now and then instead we ask Rocky just to work this up and
13 then take a vote at our next meeting?

14 MEMBER LAMARE: You've already got a motion and a second on the
15 floor.

16 CHAIR WEISSER: That's correct. Is there any discussion on
17 that? Thank you, John?

18 MEMBER HISSERICH: The motion was somewhat lengthy and there was
19 a component of it that concerned me, making reference to the
20 fact that we were specifically going to reanalyze the number
21 of cars in the directed pool. I would rather - in my view,
22 leave it open to say that we will do further analysis of the
23 performance, I guess, of the test-only, Gold Shield, and
24 test-and-repair Smog Check stations rather than saying that
25 that's necessarily going to result in some change in the

1 direction.

2 CHAIR WEISSER: Oh, I thought that's what I -

3 MEMBER HISSERICH: It's implied in there, but I'm reluctant to
4 say it directly.

5 CHAIR WEISSER: Well, let me modify the motion. I'm going to
6 try to simplify it. The recommendation would be that the
7 IMRC recommends that the Air Resources Board study the issue
8 of directing vehicles to test-only stations and report to
9 the legislature. Is that okay as a substitute motion on my
10 behalf - on my part? We can play around with it later.
11 Okay. Eldon, did you have a comment? Up means you want to
12 talk.

13 MR. CARLISLE: Do we have a second on that?

14 CHAIR WEISSER: On the substitute motion?

15 MR. CARLISLE: Yes.

16 CHAIR WEISSER: Is there a second?

17 MEMBER KRACOV: Yes.

18 CHAIR WEISSER: Second from Gideon. Any further discussion from
19 us? Are there comments on this motion? Mr. Ward?

20 MR. WARD: Mr. Chair and Committee Members, Randall Ward,
21 Executive Director of the California Emissions Testing
22 Industries Association. I mentioned in at least at one
23 other meeting that I had some concerns about this item.
24 Roger and I discussed and he was asking me as a Committee
25 Member what my basis and thought for that was. And I

1 mentioned I think the meeting before last, Chairman Weisser,
2 I think you appeared to at least embrace my concern as that
3 - and I want to preface this with saying this has nothing to
4 do with criticizing Dr. Williams' work. I think Dr.
5 Williams has done this work and he has no axe to grind or
6 bend, he's a very objective analyst in this case. However,
7 this I think we all agree, not only based on what we've
8 heard today, but what we've heard in the past is one portion
9 of the equation that you would use to analyze an issue that
10 was trying to resolve a debate between test-only and test-
11 and-repair. Having said that, I'm quite concerned that if
12 you put something in print, in other words, Dr. Williams'
13 analysis, even if it's a perfect analysis with regard to the
14 constraints that it's in and all the disclaimers that Dr.
15 Williams would use to say what does this really mean, still
16 can be misleading. Because this is a public forum and what
17 leaves you takes on official status, it can be used for
18 purposes that were never intended by this Committee and
19 therefore I'm asking that, if within the context of a
20 recommendation, if you feel comfortable in making a
21 recommendation such as the other items that were previously
22 discussed, you have enough analysis to make a
23 recommendation, then make the recommendation. In this case,
24 I think you recognize that you have one small part of an
25 analysis that raises a lot of questions and you've got a lot

1 of other questions that I think you would like answered and
2 Chairman Weisser, you've enunciated that I think a couple of
3 times in the last ten minutes about the questions associated
4 with test-only. I don't know that I've heard anything that
5 says that there have been issues brought before this
6 Committee, analysis brought before this Committee, that
7 somehow indicates in a very strong way that test-only is now
8 somehow not accomplishing the objective that was intended in
9 the initial stages of the program. It may be accomplishing
10 - (timer sounding)

11 CHAIR WEISSER: Keep going, Randy.

12 MR. WARD: - it may well be accomplishing those objectives. It
13 may be accomplishing them in a manner that none of us quite
14 realize. And I would simply refer to the consumer
15 information that I presented you with today. I think also
16 within the context of the HEP and the criticism of the HEP
17 and the percent of vehicles that were actually failing off
18 the HEP list, that may well be attributable to program
19 success. All I'm saying is, those are all questions and
20 they're valid questions and I think you all recognize that.
21 I would hate to see something in writing leave this
22 Committee that somehow left the reader with the impression
23 that test-only versus other station types may not be
24 deserved of receiving directed vehicles in the manner
25 they're currently receiving them. There is a - on the test-

1 and-repair side of this equation, at every forum I'm in,
2 including this one, I'm outnumbered, and as you can see,
3 we're outnumbered within the context of the industry three
4 and a half to one. So when I'm dealing with the legislature
5 and for example, AB578, I explained to you two months ago
6 that information that came out of Dr. Williams' work was
7 taken out of context, recommended as in kind of an official
8 way, so I leave you with that. I would think that a
9 discussion of a very earnest belief that this issue needs
10 discussion, that you are continuing to look at that
11 discussion, there are other elements open that are being
12 analyzed, ask the Air Board to report back to you, but I
13 would refrain from a recommendation. I don't think you need
14 a recommendation. I think you simply have to say, hey,
15 listen, whoever's reading this, we know this is an important
16 issue, there's a lot to digest, we're collecting what we
17 need to eat on it. Thank you. I appreciate you giving me a
18 little extra time.

19 CHAIR WEISSER: No, thank you, Randy. I think you've made
20 understandable points. My revised recommendation is in fact
21 to say we've, in essence, we've seen enough that raise
22 questions with the existing statutory requirement and the
23 way that statutory requirement is being interpreted by the
24 regulators regarding direction. We need to turn that now
25 over to the organization that has a greater analytical

1 capability to deal with the full spectrum of issues
2 associated with this, because there are SIP implications and
3 other implications that frankly beyond our knowledge. And
4 that's our recommendation under this proposal that I've
5 made.

6 MR. WARD: I have less heartburn with that than the first one I
7 heard.

8 CHAIR WEISSER: I can imagine.

9 MR. WARD: But the one thing that you might want to consider or
10 the Committee might want to consider is the information that
11 I presented today, which isn't my information. It came
12 directly off the Executive Summary archives, which is that
13 test data and the number of people going to test-only that,
14 you know, an attribute associated with test-only. You may
15 want to include that to also beef up the consumer side of
16 this which I think is understated within the context of the
17 document.

18 CHAIR WEISSER: Thank you.

19 MR. WARD: I think Dr. Lamare's effort needs to get further -

20 CHAIR WEISSER: And when we reach that portion, maybe you can
21 make a suggestion or two regarding how we can beef that up.

22 MR. WARD: Thank you.

23 CHAIR WEISSER: Are there other comments on this particular
24 motion that's been made and seconded from the public? Mr.
25 Peters, do you have something you want to add?

1 MR. PETERS: Mr. Chairman, Committee. Charlie Peters, Clean Air
2 Performance Professionals representing motorists. I'll go
3 back to my old subject. Unless you do something to find out
4 if what's broken gets fixed, all of this discussion is
5 nothing but verbiage. It's a continuous, ongoing, forever
6 discussion that'll never be settled. It's just a matter -
7 it's just a debate and it's completely ignoring the real
8 opportunity in front of us in my opinion of improving the
9 performance by finding out if what's broken gets fixed and
10 using that as a basis and analyzing whether or not test-only
11 is appropriate or inappropriate, analyzing whether there's
12 opportunities to improve the program. Thank you.

13 CHAIR WEISSER: Thank you, Mr. Peters. Is there any public
14 comment? Hearing none, let's call for a vote on the motion
15 - excuse me, Dr. Williams?

16 MEMBER WILLIAMS: I'd just like to say one thing about Randy
17 Ward's comments and break them down a bit. One is that the
18 Horton letter and our discussion involving that, how we
19 could justify the - or how anyone could justify the magic 36
20 percent, that alone was sufficient to persuade me that the
21 motion you've proposed is valid. It's quite apart from any
22 analysis done by anybody on this Committee, mainly me. On
23 that score, if the main thing is putting in print gives it a
24 certain validity, I don't know that that's changed from just
25 having it on our website and a transcript available. It's

1 out there one way or the other. So, referring to it in this
2 document, the analysis of that Sample D doesn't seem to me
3 to change how it might be abused.

4 CHAIR WEISSER: I agree, I tend to agree with you, however, I
5 also agree with Randy that what we might want to do is
6 balance the emphasis on the D Sample with an increased
7 discussion of the Horton letter, like excising certain
8 portions of the letter and include it in here, as well as
9 the attached full letter. It might help. That would be my
10 suggestion.

11 MR. CARLISLE: Okay.

12 CHAIR WEISSER: Okay. So we're going to call for a vote. All
13 in favor of the motion on the table, please signify by
14 saying aye.

15 ALL MEMBERS: Aye.

16 CHAIR WEISSER: Are there any opposed? Hearing none, the motion
17 carries.

18 MEMBER LAMARE: Abstentions.

19 CHAIR WEISSER: Are there any abstentions? Thank you, Jude.

20 But the reporter should note that absent from voting is
21 Committee Member DeCota who had to leave for an engagement
22 in Fresno. Okay. Vehicle preconditioning. I should give
23 warning that I'm going to have to bail out pretty soon. I
24 have to go back to Oakland, pack, and then catch a 7:00 for
25 L.A., so any comments on this next section, the

1 preconditioning one, which I think with a few grammatical
2 changes looks pretty darn good. No comments at this point,
3 is that correct? Very good. I'm glad because it moved me
4 to tire pressure and there is one really - I mean there are
5 about 8,000 little grammatical things and some confusion in
6 terms of the numbers, which seem to change here and there,
7 but I guess want to ask another really stupid question and
8 one I'm not sure we're not ready to deal with, but I
9 remember reading in the transcript of last month's meeting
10 that our stalwart Executive Officer got a response back from
11 the stalwart folks at BAR that they were able to get tire
12 pressure gauges for \$1.13 each.

13 MR. CARLISLE: Correct.

14 CHAIR WEISSER: Which is a very nice price, by the way. I had a
15 question I meant to ask you when you were giving your
16 presentation, which is are you giving tire gauges out at Cal
17 Expo when you're crushing cars? Are you? Excellent. And
18 my question is whether we should be considering the State
19 giving out tire pressure gauges every time somebody comes in
20 for a Smog Check. It would cost the State - how many Smog
21 Checks a year?

22 MR. CARLISLE: It would probably cost them \$10 million.

23 CHAIR WEISSER: Ten million bucks a year. I don't know, just
24 putting it out there, folks. You'll hear more later.
25 Pardon?

1 MEMBER NICKEY: What's the alternative, we pay for it? Meaning
2 test-only, test-and-repair, and Gold Shield.

3 CHAIR WEISSER: Oh, no, I think the State has to - I mean,
4 somebody has to subsidize it. I don't think if you ask the
5 stations to do it -

6 MALE: (inaudible)

7 CHAIR WEISSER: Yes, well -

8 MEMBER LAMARE: My comment would be that many people already
9 have them so I'm not sure you would use up your quota.

10 CHAIR WEISSER: Right.

11 MEMBER LAMARE: The point would be to offer to consumers and, at
12 that point, to educate them that their tire pressure has an
13 impact on fuel efficiency and air pollution.

14 CHAIR WEISSER: I want to point out that the federal legislation
15 requires tire pressure monitors included in new cars. I
16 think it's from 2007 or 2008 onward. It only requires those
17 to send an alert when a tire drops more than 25 percent
18 under.

19 MR. CARLISLE: Twenty-five percent below placard.

20 CHAIR WEISSER: And I have to tell you, when a tire's that
21 severely disinflated, you've gone through months of under-
22 performing vehicles and, yes, we've got a lot of stupid
23 people who are willing to spend \$3.50 a gallon on a car that
24 they could optimize to get better mileage. Okay. I just
25 want to put that out there. Frankly, if I were to be on

1 this Committee next year, it's an issue I'd like to pursue.
2 The notion of getting into some of the funds that go to BAR
3 for a program that would allow giving consumers something
4 when they go to Smog Check, beside a certificate. They can
5 get something out of it for a buck. Jude?

6 MEMBER LAMARE: Mr. Chairman, time is running short.

7 CHAIR WEISSER: Yes, I'm leaving in five.

8 MEMBER LAMARE: You're going to leave. I do not have any

9 further comments on the rest of the report and I'd like to
10 find out if anyone has any critical comments they need to
11 share with the Committee or if not, if they have editorial
12 comments to share with Rocky, that they leave those.
13 Because we had dedicated ourselves to going through the full
14 report first, there's some issues that I have not brought up
15 that I would like to get to. One is that there are three
16 recommendations from our last report that are not included
17 in this report, quantifying emission reductions, enforcement
18 funding, and smoke test. I think they all deserve to be
19 included. And I have a number of comments on the Executive
20 Summary that I will leave with the Executive Director. But
21 in a similar fashion, I wonder if other members of the
22 Committee could wrap up what their further comments might be
23 in a summary fashion so we can see if it's worth carrying on
24 with the Committee after you leave. I don't think it will
25 be.

1 CHAIR WEISSER: Jude, I think that's an outstanding suggestion.

2 I am going to leave now. I will leave with Rocky my
3 editorial suggestions. I, for one, have no global issues.
4 I didn't even think of the other issues that you've raised,
5 the three issues from last time that she wants to carry
6 forward. I think that might be a good idea.

7 MR. CARLISLE: Enforcement money I think is still there. It's
8 under the previous 2004 recommendation, under Section 3, I
9 believe.

10 CHAIR WEISSER: If I can ask the Committee's indulgence, I'm
11 going to ask Jude to carry on as acting chair in my absence,
12 but I do have to leave.

13 MEMBER LAMARE: So I would like to recognize any Committee
14 Member that wants to address the rest of the report as a
15 whole in terms of your desire to - what you want to talk
16 about with the Committee and anything. No?

17 MEMBER KRACOV: Our intention is to approve these recommendations
18 at the next meeting?

19 MR. CARLISLE: That's a goal, but is it realistic? That's a
20 question we have to answer. I don't know that it's
21 realistic at this point. In part it depends on -

22 MEMBER KRACOV: Do you think we could get it out by the end of
23 the year?

24 MEMBER LAMARE: That was the end of last year, I think, Gideon.

25 So my request to you would be I hope you can do your part in

1 the next couple weeks and help Rocky rewrite those sections.
2 Any other comments from Members from the IMRC? Okay, so
3 I'll encourage everyone to give to Rocky all your edits and
4 maybe Rocky can see if there are conflicts or if they're
5 consistent. And we have number nine on the agenda, public
6 comments. Mr. Peters?

7 MR. PETERS: Madam Chair, I was just wonder it if was possible
8 to comment to the report that was being discussed that the
9 public had no opportunity to respond to?

10 MEMBER LAMARE: Please do.

11 MR. PETERS: Okay. A couple of things. I noted an article in
12 the Sacramento Bee yesterday or the day before that the
13 Attorney General was wishing to be able to collect money
14 from people that are involved in consumer issues where the
15 Attorney General takes action and spends money with
16 attorneys and being able to recoup. That was quite an
17 interesting debate and apparently being discussed in the
18 legislature as we speak. What was interesting in there was
19 that this has previously been passed and addressed by a
20 California court who threw it out because it was
21 unconstitutional because a law was passed in a trailer bill
22 and not discussed as policy issue, but only as a budget
23 issue. So having said that, I wonder if the issue that took
24 two additional years out of the program changed \$6 to \$12,
25 from four years to six years, and taking the change of

1 ownership out, which was done in a trailer bill without
2 policy discussion might very well exactly fit and maybe an
3 ever stronger fit, that criteria. We put a whole bunch of
4 money into this pot at the Department of Consumer Affairs
5 the Bureau of Automotive Repair. I think that's what 386
6 was about. That's what 1997 is about. It's about getting
7 that money and using it at the air district. Maybe that's
8 why we got it there. So the question is, is it appropriate
9 for some attorney to look at and find out if those laws that
10 we're dealing in fact are valid and if it's appropriate for
11 the Committee to consider that, item one. Item two, the
12 issue of DMV and the U-Hauls and associated vehicles. The
13 documentation that I have indicates that every one of those
14 vehicles must go out of state at least once a year for that
15 exemption to be valid. Has anybody seen any of those
16 documentations that those vehicles have been taken out of
17 state? I haven't. I suggest the right place to address is
18 with the Department of Motor Vehicles. May as well go talk
19 to a black hole. I think the Air Resources Board has done
20 considerable research on this. The Bureau of Automotive
21 Repair has fleet-licensing people, has all kinds of people
22 that have been involved in this forever. I would suggest
23 that the Committee also consider the possibility of
24 addressing those issues with the agencies that are most
25 involved in that and have been for some time. Thank you.

1 MEMBER LAMARE: Now regarding item nine of our agenda, public
2 comment, did you want another three minutes, Mr. Peters, on
3 general comment?

4 MR. PETERS: Absolutely.

5 MEMBER LAMARE: Do you want to start the clock again?

6 MR. PETERS: Madam Chairman, Charlie Peters, Clean Air
7 Performance Professionals representing motorists. Again,
8 back to our examples of the kinds of things that we're not
9 concerned about. We can go take a nice sharp Model A
10 engine, put it in the good doctor's Volkswagen, put a
11 computer-controlled air bleed, which is a legal modification
12 of that car or any car, put a nice strong three-way cat on
13 it and it will pass any federal test procedure we want to
14 run it through with flying colors as long as that's been
15 adjusted to pass that little test that we do here in
16 California. If that doesn't matter, and apparently it
17 doesn't, because we're only concerned about tailpipe and
18 maybe we're going to evaporate something, or should we find
19 out if what's broken gets fixed and make huge improvements
20 in the performance of the program. I think those are valid
21 considerations. I think those issues can be found out
22 whether or not they're important in a pilot study involving
23 one shop, ten shops, the whole state, whatever. I think it
24 is a huge opportunity to improve air quality in the state of
25 California, improve quality, reduce fraud, create support

1 for BAR, create support for the Administration, for the
2 legislature, create a more ethical effective service
3 industry for California which will affect all business in
4 California. The other option I see, we must tax carbon and
5 give that as corporate and NGO welfare, move stuff offshore
6 and maybe that affect on the general population of
7 California, this is not being discussed. We're certainly
8 talking about the economics and a whole bunch of money to be
9 made by people investing in this stuff, but I think the
10 investment dollars are going to come from the public. I
11 think the quality out of the Smog Check to find out if
12 what's broken gets fixed is a legitimate real consideration
13 that this Committee should consider. Thank you.

14 MEMBER LAMARE: Thank you, Mr. Peters. And now for the final
15 item, number ten. Do any Members of the Committee want to
16 suggest future agenda items today? No, well, hearing none,
17 then I will take a motion to adjourn.

18 MEMBER HISSERICH: I move to adjourn.

19 MEMBER LAMARE: Who moved that?

20 MEMBER HISSERICH: Me.

21 MEMBER LAMARE: John Hisserich moved. Where is the second?

22 MEMBER KRACOV: Second.

23 MEMBER LAMARE: Second by Gideon Kracov that we adjourn the
24 meeting. All those in favor, please say aye.

25 ALL MEMBERS: Aye.

MEMBER LAMARE: Any opposed? Good, we're adjourned. See you
next month.

- MEETING ADJOURNED -

TRANSCRIBER'S CERTIFICATION

This is to certify that I, TERRI O'BRIEN, transcribed the tape-recorded public meeting of the Bureau of Automotive Repair dated August 22, 2006; that the pages numbered 1 through 186 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated _____, 2006.

Terri O'Brien, Transcriber
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